

TWENTY-SIXTH DAY.

TRIBUNALS OF INQUIRY (EVIDENCE) ACT, 1921.

TRANSCRIPT OF PROCEEDINGS  
AT THE PUBLIC INQUIRY

into

INCIDENT AT DUNBLANE PRIMARY  
SCHOOL on 13th MARCH, 1996

before

THE HON. LORD CULLEN

on

WEDNESDAY, 10th JULY, 1996.

within

THE ALBERT HALLS,  
DUMBARTON ROAD, STIRLING

.....

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APPEARING:-THE LORD ADVOCATE (The Rt. Hon. The Lord Mackay of Drumadoon, Q.C.), Mr. IAN BONOMY, Q.C., Advocate Depute, with Mr. J.C. LAKE, Advocate, for the Crown;

MR. C.M. CAMPBELL, Q.C., with MS. L. DUNLOP, Advocate, for the families of the deceased children, the families of the injured children, the children absent from class, Mrs. Harrild and Mrs. Blake;

MR. A.T.F. GIBB, solicitor, Edinburgh, for the representatives of Mrs. Mayor (deceased), and the Educational Institute of Scotland;

MR. M.S. STEPHEN, solicitor, Glasgow, for the Association of Head Teachers in Scotland, and Mr. Ronald Taylor (Headmaster);

Mr. M.S. JONES, Q.C., for Stirling Council and Others;

MR. J.A. TAYLOR, Solicitor Advocate, Edinburgh, for the Central Scotland Police;

THE DEAN OF FACULTY (Mr. A.R. Hardie, Q.C.) with MR. G.C. KAVANAGH, solicitor, Hughes Dowdall, Glasgow, for individual officers of the Scottish Police Federation, and Lothian and Borders Police.

Mr. C.B. McEachran, Q.C., for the Scottish Target Shooting Federation;

Mr. M.S. Scoggins, solicitor, (Davies Arnold Cooper) London, for the British Shooting Sports Council.

Mr. Cruikshank, solicitor, Aberdeen, for Stirling Rifle and Pistol Club, and Callander Rifle and Pistol Club.

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WEDNESDAY, 10th JULY, 1996.

TWENTY-SIXTH DAY.

LORD CULLEN: Let's resume. Mr. Taylor, you had reached some discussion about ammunition?

MR. TAYLOR: Before going on to ammunition there was one point which I undertook to come back to this morning and that is in relation to Mr. Richardson's evidence, and how he applied the concept of use, and I think the question which your lordship put to me was whether or not "use" in Mr. Richardson's world was a necessary prerequisite in determining the factor of "good reason". I have looked at the evidence and I think it is fair to say that Mr. Richardson considers past use to be an essential, and the passages which support that are Pages 2299 and 2327. He doesn't in fact say that in as many words and I think he.....

LORD CULLEN: That is what I thought was the passage.

MR. TAYLOR: That is what he says. Sir, yesterday we were talking about "good reason" and the requirement for intention. Having looked at the transcript this morning there is one point which I would seek to clarify with your lordship's leave. It is my submission that "good reason" and "intention" are two separate concepts. As I said yesterday, the concept of "intention" -- that is the intention of the applicant -- is something which is implied by virtue of the fact that he is making application to hold a Firearms Certificate and the membership of the Club which is going to enable him to make use of that certificate to exercise his intention to provide him with the opportunity. And the application form itself, sir, makes it clear that there has to be some intention because Question 23 from the application form is in the following terms: "Where do you intend to use each of the firearms listed?" That is the only point in the application where "intention" is mentioned, and that is why I say that it is implied by virtue of the fact that the applicant has completed the form.

Having/

Having completed the form, the test which then requires to be satisfied is whether the applicant has the opportunity to shoot. As I said a few moments ago, I distinguish between the intention to use and the opportunity to use. He has first of all the intention, and having stated that intention, he then requires to demonstrate the opportunity. That opportunity becomes in my submission the key. It becomes the key because that is what the Guidance tells us.

In my submission, his actual exercise of the intention, in other words his actual usage, is in itself an irrelevant factor. The concern is that if the weapons are to be used they are to be used at a recognised Club.

Of course, sir, that then takes us back to the Guidance and how one interprets the Guidance, and since this is a particularly important aspect in my submission I wonder if I could just try to summarise what I hope I conveyed yesterday. I accept entirely that there is an interpretation possible such as that you put to me yesterday but, in my submission, the best interpretation of a document might be thought to be the author of that document since he might best know what it was that the document was intended to convey. If that is accepted, and given that there is a potential for ambiguity in the Guidance, then we should in my submission have regard for what is said in the evidence of the Secretary of State and the Home Secretary, and this is what one finds in the joint statement, the Green Book as Mr. Campbell referred to it as being.

Support for that goes further because if the Guidance is setting out only the absolute minimum, which is the interpretation which you were putting forward yesterday as I understand it, then further criteria have to be met. It is surprising that if that is the correct interpretation one does not find any examples of these further criteria mentioned anywhere in the body of the Guidance notes. For example, if past use was to be thought a relevant criterion to add.....

LORD CULLEN: I don't think I ever suggested that it was a criterion. I think you are not perhaps meeting the point that I was suggesting to/

to you for consideration. I was suggesting the question was whether when you made application of this sort the concept of "good reason" might involve intention and past use might be a relevant place in which to look to see whether it was a genuine intention. It is not using past use as a test, it is merely looking at it as a source of information. Perhaps I could add I don't think that you are really suggesting that the Guidance is particularly clear on this point and nor am I. I think it is just it may be Guidance which does not in fact fully reflect what ought to have been said.

MR. TAYLOR: I cannot argue with that, sir. That may well be the case.

LORD CULLEN: It is not posing you with a difficulty. I don't think the terms of the Guidance are altogether clear and it may have been they could have been better expressed.

MR. TAYLOR: Well, I think you and I, sir, are at one on that. Just before I move on: it is my submission, however, that the concept of "intent" does not play part of the "good reason" and then.....

LORD CULLEN: I have your submission on that point.

MR. TAYLOR: In which case I won't labour the point any further and I can move on to look at another question which seemed to cause some difficulty and that is the question of ammunition.

The arguments, sir, in respect of ammunition and the "good reason" requirements are really just echoes of what one finds in the good reason to acquire a firearm. One goes with the other hand and glove. The opportunity to shoot at the Gun Club is the good reason to hold and acquire not only the firearm but the ammunition to go with it. The question, of course, which has been brought to the Inquiry is how much ammunition ought there to be in any one person's possession. The Guidance doesn't in fact say what that figure should be. In fact, it goes on to say that "No arbitrary limit should be placed on the amount of ammunition".

We then in Paragraph 6.8(j) of the Guidance/

Guidance get a clear indication that it is not possible to give firm guidance on the amount of ammunition which may be authorised by a certificate and you must deal with each case on its own merits.

One then has to look at what are the merits that require to be examined. The suggestion at the Inquiry has been that the amount of past purchases and the use of commercial ammunition should be an important consideration in assessing the amount an applicant should be authorised to purchase or possess. I have already touched on what use may be made of past usage, but I also question the relevance of the amount of ammunition which an applicant is authorised to acquire or hold in respect of use. Any Firearms Inquiry must look to the future period of certification and not to the past. An applicant's past use of ammunition may have no relation to his future needs. He may wish to increase his activity.

LORD CULLEN: Is need the test?

MR. TAYLOR: His further intentions.....

LORD CULLEN: Is need the test?

MR. TAYLOR: No, what I am saying the test is.....

LORD CULLEN: Then you say "Might have no relation to his future needs".

MR. TAYLOR: His future intention.

LORD CULLEN: I thought intention wasn't the test?

MR. TAYLOR: It is not, sir, the test when it comes to "good reason". We are here looking at the amount of ammunition which requires to be held. What one has first of all is good reason to hold the ammunition. The test for the good reason to hold the ammunition is the same test as the reason to acquire the firearm. These are the two which go together. One must then look to see what amount of ammunition the applicant should be entitled to hold. We are told in the Guidance that no arbitrary limits are to be set. We are not here/

here talking of good reason for holding a particular amount of ammunition, we are in a different aspect of the Guidance at this stage in my submission, we are simply looking to see how much it is he should hold. That is separate altogether in my submission from "good reason".

It is also suggested in the criticism that the amount which can be purchased at any one time must have a direct relationship with the frequency of shooting. But that might not be immediately clear if a shooter uses a lot of ammunition on one shoot or visit to the Gun Club then no matter how rare an occurrence that might be it might well be reasonable for him to purchase a large amount at one time. We were told in the Guidance that consistency of performance and cost were relevant factors in deciding how much any particular shooter should be entitled to hold; we find that at 6.8(j). In my submission, there is no suggestion that a less enthusiastic Club member should not be entitled to these benefits.

It is submitted, sir, that the risk of giving too much ammunition is one of security. If an applicant is considered suitable to hold a firearm and ammunition and to have good reason to do so, it really should make no difference whether that authority is for 15 or 1500 rounds provided that he has adequate security.

In any event, sir, it has to be said that whilst there may have been some raised eyebrows in relation to the amount of ammunition in which Hamilton was authorised to acquire and possess, no one has been able to say how much is too much. Mr. Richardson certainly was invited to and declined to do so. He was able to refer to the previous Guidance which was in force until 1989 and which he considered placed a limit of 1500 rounds. I have set out, sir, what the previous Guidance stated and it is as follows, "It is impossible to give firm guidance on the amount of ammunition authorised by a certificate but Chief Officers of police have accepted that the following figures represent reasonable quantities for bona fide Club members (i) the maximum number of rounds to be possessed at any one time 1500; (ii) maximum number of rounds to be purchased at any one time, 1000. Each case should, however, be dealt with on its merits".

Sir,/

Sir, Hamilton was a bona fide Club member. It would appear therefore that the amount of ammunition which Hamilton was authorised to hold represented what was at least until 1989 a reasonable quantity for him to hold. I have to say in passing, sir, the Guidance which existed before is perhaps not significantly clearer than the Guidance now in that it talks of a reasonable quantity and a maximum at the one time.

I think we can now move on to look at other aspects which are encompassed within Section 27 and these are danger to the public safety or the peace, intemperate habits, unsound mind, any reason unfitted to be entrusted with a firearm. In the very helpful note which was provided by Counsel to the Inquiry the authors conclude on Page 22, after considering the cases, that the Court has not considered each test as being in a separate compartment. They consider that the Courts have applied the composite test. In my submission, sir, that is a sound analyses and it is one which I suspect was arrived at after a great deal of scrutiny of a number of cases.

The composite test may be expressed as being whether or not circumstances reveal the likelihood of a disturbance to good order arising out of the possession by the applicant of a firearm. I appreciate, sir, that that seems an echo only of the first of the four criteria which have been set out, in other words, the ones come into 27(1) of the Act, but a person who is of unsound mind and in the possession of a firearm is likely to be a risk to the disturbance of good order. The same applies in respect of a person of intemperate habits. A person will be unfitted to be entrusted with a firearm in circumstances where such possession is likely to be a risk to the disturbance of good order. It is, sir, the risk to good order which makes such a person unable to be entrusted.

This approach echoes the views which were set out by the Sheriff Substitute in the case of JOY v. THE CHIEF CONSTABLE OF DUMFRIES AND GALLOWAY which was reported in 1966 Sheriff Court reports at Page 93, and at Page 94 the Sheriff substitute said, "The proviso" -- and I think he was looking at the 1937 Act which is in exactly the same terms at least so far as this Act is concerned, the/

the Act which we have to look at -- "The proviso lays down that an applicant should not have been given a Firearm Certificate if he is prohibited under the Act from possessing a firearm if he is of intemperate habits or of unsound mind or if for any other reason he was unfit to be entrusted with a firearm. This provision did seem to me to have relevance to the character of the applicant from the point of view of public safety". The main test which have been set out for "public safety" as used by the Sheriff Substitute is "good order".

Support for this approach, sir, is to be found in ACKERS v. TAYLOR (1974) 1 ALL ENGLAND REPORTS at Page 771 where Ashworth J. said at Page 775, "All of us know to our cost to what extent good order and the principles of good order are today subject to disturbance, and I would for my part be prepared to entrust a very wide discretion (to Chief Officers of police) so long as the discretion is exercised in connection with the use or possession of a gun".

Again, sir, there is a link between possession of the gun and the good order. Further support is derived from the judgment of Lord Justice Bingam, the now LORD CHIEF JUSTICE, in the case of SPENCER-STEWART v. THE CHIEF CONSTABLE OF KENT, 1989 CRIMINAL APPEAL REPORTS, Page 307: "If therefore an applicant or holder of a licence is given to the commission of offences which, however serious, do not involve the slightest risk or likelihood of use of a shotgun, then that, in my judgment.....is not a ground for refusing or revoking a licence".

LORD CULLEN: If the test is approached in the way you described why do we have the proviso at all?

MR. TAYLOR: I well understand why your lordship makes that point and it is difficult to see why one does have that proviso. But that said, it does seem to be the only way in which one can make any sense of the way in which the Courts have approached the interpretations to Section 27. One finds on occasions that one type of behaviour will fall within a number of different aspects of Section 27. One will find it, for example, that drinking and driving may be thought to be a prohibition because of intemperate habits, whereas on another occasion/

occasion it will be thought to be a case which is otherwise unfit to be entrusted.

LORD CULLEN: Of course, one explanation could perhaps be that the proviso is intended to deal with radical defects in the applicant, and there may be occasions in which we don't have these radical defects but nonetheless from past performance, perhaps predictions as to future performance, there is a risk that good order and the public peace might be disturbed, without necessarily having to go quite so far.

MR./

10.20 a.m.

MR. TAYLOR: I accept that as a possible explanation, sir. It is one of perhaps several. It could be for example that another possible interpretation might be that the proviso is there for the avoidance of any doubt.

LORD CULLEN: Another way of expressing the same thing?

MR. TAYLOR: Yes.

LORD CULLEN: Anyway, it has been with us for rather a long time.

MR. TAYLOR: It certainly has, and has not improved with time, I might be tempted to say.

The very fact that at this Inquiry so much time has been spent on seeking to interpret what the Act might mean and even worse, seeking to interpret what the Guidance Note means, illustrates the very difficult task which any police officer has when he comes to operate this framework.

It does appear, sir, that the view which I have urged upon you is one which other police officers have adopted, and not just officers from the Central Scotland Police. Mr. Richardson in his report after acknowledging that there were a number of criteria to be met did say "Principally, these centre on whether the applicant has good reason to acquire a firearm and ammunition and can possess these without danger to public safety". So he too is taking a composite approach. Mr. McMurdo adopted a similar line, for example at Day 12, p. 1552.

If I could now touch on revocation and renewal. When deciding if he should revoke or refuse to renew a firearms certificate the Act requires the Chief Officer to apply different criteria. Good reason does not enter into the equation when revocation is in contemplation. Similarly, the requirement that the Chief Officer of Police must be satisfied the applicant can possess a firearm without danger to the public safety or to the peace does not feature in Section 30. This latter distinction is however of little practical significance/

significance, given the way in which the Court has developed the test, as I have previously submitted.

When deciding if he should revoke or refuse to renew a firearms certificate, a Chief Officer of Police is called upon to exercise a discretion. He cannot abdicate that discretion and refuse to revoke on each occasion when a decision falls to be made, thus leaving it for the Sheriff to sort matters out on appeal. It is the Chief Officer who is charged with the responsibility of forming a view and thereafter implementing the decision reached.

His discretion has to be exercised within a statutory framework. He must act lawfully. One way in which he might test whether the exercise of a discretion is reasonable is for him to consider what view an Appellate Court might take of his decision. If the Chief Officer forms the opinion or forms the view that on no account would he succeed on appeal then he should realise that he is probably not exercising his discretion reasonably. He is not acting within the parameters set down in the Act, and the interpretation thereof.

Mr. McMurdo acknowledged this (Day 12, p. 1506) when he said that it was always a consideration for any police officer that he has got to justify his decision before a Sheriff. He is not there saying that he does to wish to waste time on an appeal or that he is frightened of being overturned on appeal. All he is saying is that it is a consideration, and in my submission a correct consideration.

Sir, I agree with what was said yesterday by Mr. Campbell, that the risk of adverse reaction on appeal should not influence a decision of a Chief Officer of Police. In my submission, Mr. McMurdo at no time said that that was a factor which influenced him.

When considering whether to revoke or to refuse a firearms certificate it is submitted that a Chief Officer cannot act on a whim: he cannot act on intuition; he cannot act on a "gut feel", which is the much-used phrase at the Inquiry. If he is to revoke or refuse an application he must be able to lead evidence in support of his contention that the/

the applicant or older is likely to cause a danger to the public by virtue of his possession of a firearm. To use the composite test with unsubstantiated material will not suffice.

Mr. Bennett expressed himself (Day 21, p. 2554) in the following way: the question put to him was "So even if your gut feeling was against the applicant, you would probably feel you had to grant?" and his answer was "Well, I have had a few gut feelings in five to seven years and I have had to grant them". On the same page Bennett said that if an allegation was made against an applicant by a credible and reliable source, which allegation was disputed by the applicant, he felt he would have to come down on renewing the certificate.

The foregoing, sir, is supportive of the position which was adopted by McMurdo. McMurdo comments (Day 12, p. 1533) that in all the stated cases he had ever read he hadn't seen one where there wasn't evidence. No action of which he knew had ever been taken in relation to firearms purely on a gut feeling.

This view is consistent with that expressed by other witnesses. Constable Ann Anderson (Day II, p. 1393) said: "I can't stop someone getting a firearm because I have a bad feeling about them". It may be thought that in such circumstances the police ought to refuse a renewal. If society so desires, then society will have to so legislate.

Sir, much comment was made at the Inquiry about the need for criminal convictions or otherwise. A criminal conviction is not necessary for revocation or refusal to renew; and although it was suggested yesterday by my learned friend Mr. Campbell that Mr. McMurdo seemed to be of that view, in my submission Mr. McMurdo made it very clear in his evidence that he did not consider a criminal conviction to be necessary for either revocation or a refusal to renew. What he did say was that he found the approach taken by the Fiscal in not proceeding with the cases to be supportive of his decision, and he might need to re-visit his decision were they to have previous convictions, because perhaps they were taking a different view of the seriousness of the facts than he had done: but he was/

was not in any way saying there was a prerequisite for revocation that there had to be a previous conviction.

However, sir, if any member of a police force did have such a view it would be understandable given the message sent by those who set "good practice". In the Joint Submission by the Home Secretary and the Secretary of State for Scotland it is said in the section dealing with revocation: "Unless a certificate holder sustains a criminal conviction during the currency of his certificate, the conditions for revocation may not often apply in practice" (para. 79, p. 15). That seems to be the view of the Home Secretary and the Secretary of State for Scotland. It is therefore perhaps not surprising or would not be surprising if some police officer has picked up that cue.

That, sir, is all I propose to say in relation to the law and practice of firearms, but I would now propose to move on to the firearms licensing procedures which were adopted by Central Scotland Police.

The Inquiry has examined the grant of renewals and variations of firearms certificates to Hamilton over a period of 19 years since the original grant in 1977. The procedures adopted by CSP in respect of firearms licensing during that period have changed. Changes have been implemented to meet amendments to the legislation and Guidance to Police and to meet the recommendations of HMCIC. These recommendations have sought to reduce the involvement of police officers in firearms licensing and to increase the role of civilians. The general direction throughout that period has been towards a civilianised system of firearms licensing.

The most significant changes which have occurred in CSP's procedures during this period occurred in around 1989, when following the 1988 Act the Standing Orders used by the Force were amended, as was the paperwork completed by them in firearms enquiries.

The other significant change has been the introduction of a civilian firearms examiner in 1991, and that examiner now fulfils the role of the Enquiry Officer in renewal applications arising in a particular/

particular geographical area within the Central Scotland Police's jurisdiction.

Despite the changes, the licensing procedures adopted by CSP throughout the period of enquiry have comprised, broadly, two elements. The first involves an investigative or enquiring role by Divisional Officers, or the Firearms Examiner. The second is an administrative role carried out by the Firearms Department. Both of these elements come together to present a recommendation for grant or refusal by the Deputy Chief Constable.

CSP have resisted the pressure that has been brought to bear on them by the Government to move towards a postal renewal system. We have also insisted that all applicants be interviewed at the time of renewal. This is in spite of the Home Office advice that police should not generally visit a person who is applying to renew a certificate unless the material circumstances have changed.

At this stage, sir, the evidence given at the Inquiry as to the procedures adopted by CSP will be analysed. This exercise has already been undertaken by Mr. Richardson in his report.

At the outset, sir, the enquiry of the applicant is initiated by the receipt of an application to grant or, on renewal, a computer-generated reminder that the current certificate is due to expire. The reminder is passed to the Divisional Officer or the Firearms Examiner. In accordance with the Guidance to the Police (para. 6.2) a prior appointment is made with the applicant.

Now, sir, at the pre-arranged time the police constable or firearms examiner will visit the applicant. Mr. Lynch explained the steps which he would take on meeting the applicant (Day 9, p. 1298). He would take an application form with him to explain the information which the applicant requires to supply; he will then check the weapons and ammunition held; he will check the security for the weapons and the ammunition; he will discuss with the applicant his reasons for wanting the weapons for which he seeks authority to possess or acquire.

This/

This procedure is not particular to the civilian examiner. Ann Anderson (Day 11, pp. 1389- 1391) and John Brown (Day 10, p. 1274) described taking similar steps. Although there was a little confusion as to the whereabouts of the existing firearms certificates during the renewal, the weight of evidence suggests that the Enquiry Officer will have sight of the certificate. Norman Lynch (Day 10, p. 1303) and John Brown (Day 9, p. 1273) confirmed this.

In addition to the basic housekeeping checks of amount of ammunition held and the serial numbers of firearms described, the Enquiry Officer's investigation is intended to allow them to answer broadly three questions: (1) Are the security provisions adequate? (2) Is the applicant suitable to be granted a firearms certificate? and (3) Does he have good reason to hold the firearms and ammunition for which he seeks authority to acquire or possess?"

Now, I take each of these in turn. In so far as security is concerned, this is self-explanatory. It is however worthy of note that in Her Majesty's Chief Inspector of Constabulary's letter of 25th November, 1995 (Chap. L, Vol. 7) to Mr. Wilson, the Chief Constable of CSP, the Inspector singles out this aspect of CSP's procedures for praise. Mr. Richardson found nothing to praise or at least if he did, he said nothing of it.

The suitability of the applicant. The enquiry into the applicant's suitability is intended to identify whether, using the shortened version of the test already referred to, there is any reason to believe that the applicant is likely to be a danger to the public by virtue of his possession of a firearm. The core of the enquiry in this respect has, throughout the period under review, been a check of the Police National Computer and Scottish Criminal Records Office records. Although it cannot be confirmed that these checks were made prior to the 1989 renewal, there is no evidence before the Inquiry to suggest that they were not. The Enquiry Officers involved pre-1989 were not asked to comment when in the witness box.

In 1992 and 1995 the Enquiry Officers recorded/

recorded the outcome of PNC and SCRO checks on the new improved RL3a form, both stating that there was no trace. Ann Anderson (Day II, p. 1383) also checked Criminal Intelligence. A Force Memorandum issued in 1990 instructs that a Criminal Intelligence check should be made when considering a firearms renewal.

Now, it is difficult to envisage what other checks an officer might carry out to assess an applicant's suitability other than perhaps a check of DVLA, which would provide information of any drink driving offences. This is not to suggest that criminal activity is the only basis for rejecting an application as unsuitable: it is rather a realisation that police officers are unlikely to be in a position to identify any reason why an applicant is unsuitable to hold a firearm on anything other than the tangible evidence which will be recorded on these registers. The reason for this is that the Enquiry Officers will meet the applicant only briefly, perhaps for half an hour or so at the most.

As recommended in the Guidance, the applicant is forewarned of the visit. He is likely to take steps to ensure that his house is in good order and that he is on his best behaviour when the officer arrives.

His/

10.40 a.m.

His firearms are likely to be secure and any evidence of a lifestyle or behaviour which might give rise to questions of his suitability, principally the abuse of alcohol, are unlikely to be on view.

The meeting can, by necessity, give only a fleeting impression of the individual and, it is submitted, is unlikely to provide the inquiry officer with any information on which to base an assessment of the applicant's character which would be able to subsequently withstand the scrutiny of detail, were that required.

Professor Cooke was asked how long it would take a psychologist to make an assessment of an individual's suitability to hold a firearm. He indicated that it was likely to take several meetings and a great deal of collateral information (p.2710). If it takes a trained psychologist this long to assess suitability, it would be unreasonable to expect a police officer to identify some covert reason to believe an applicant to be unsuitable on the basis of a meeting lasting less than 30 minutes. On the basis of Professor Cooke's evidence, extending the interview is unlikely to produce any different outcome. Sir, I think the evidence which I am referring to was given by Professor Cooke when answering questions put to him by, my memory tells me, Mr. Gibb and that it seemed to be a summation of the position which he has expounded when answering questions put to him by the learned Advocate Depute and Mr. Campbell.

Where there is no tangible evidence to give rise to a reason to believe the applicant is unsuitable, the police must rely on the counter signatory. He or she must have known the applicant for at least two years. On signing the application he confirms that he knows of no reason why the applicant is not a fit and proper person to hold a firearm. It is reasonable for the Force to rely on this declaration as an assessment of the character of an individual.

The inquiry officers check that the counter signatory has signed the application and Mr. Campbell, the counter signatory on this occasion, confirmed/

confirmed he was contacted in both 1992 and 1995.

It might be suggested that given the extent of the reliance which is placed on counter signatories that it would be appropriate to interview them to ascertain their knowledge of the applicant. However, sir, it must be borne in mind that these inquiries have been made in a climate in which the view expressed by Her Majesty's Chief Inspector of Constabulary is that the use of a counter signatory should be discontinued. Mr. Cameron (Day 21, p.2488) confirmed that his perception was that there was no encouragement to check on counter signatories except in exceptional circumstances. Furthermore, in the joint submission, the politicians with responsibility for Britain's police forces, consider that checking on a counter signatory, and I quote, "Might involve a large number of fruitless police inquiries, since many counter signatories will be found to be people of impeccable character and will have no qualms about having vouched for the application". They conclude that to require the police to check on all counter signatories "could well detract from the overall efficiency of police checks without necessarily making them more effective".

Sir, against that background, it might be thought surprising that there is even a check made by Central Scotland Police on whether or not the counter signatory has in fact signed the form. They are doing that which they are urged not to do.

Finally, encouragement for the view that police inquiries into an applicant's suitability should focus on criminal behaviour by the applicant is obtained from the thematic inspection report and indeed from the joint submission. Paragraphs 4.8 and 4.9 of the thematic inspection report detail the background checks which the Inspectorate recommends should be carried out on applicants "in order to establish their character". They recommend that checks of PNC and SCRO should be carried out. They recommend that DVLA should be checked and of course Criminal Intelligence. Criminal Intelligence is referred to as particularly useful as a source of information on associates. The Inspectorate makes reference to no other background checks and makes no further recommendations or suggestions in respect of what the police might do to establish character.

HMCIC/

HMCIC also recommend that home visits are unnecessary at renewal. Postal renewals are recommended. HMCIC see no benefit to be gained by the police in assessing an applicant when making a visit. Without a visit, sir, the only character checks available are those on the computer.

At paragraph 62 on page 12 of the joint submission, reference is made to the Home Office Guidance to Police, which at paragraph 6.8 states "The main consideration is the applicant's character". The submission continues to comment that this requires a consideration of the applicant's criminal record. No other comment is made on character. The clear inference from this is that character should be viewed primarily in the context of criminal conduct. This theme is continued at paragraphs 65, 66 and 67 of the joint submission where discussion under the heading of "Personal Suitability" is focussed on a consideration of criminal record and criminal associates with a reference to mental health being the only aspect with no criminal flavour.

It is submitted that the only checks which could have been carried out by the various inquiry officers in the process of completing the various RL3As throughout Hamilton's firearms application history, and were not, were those of Criminal Intelligence and of DVLA. Criminal Intelligence was not checked in 1992. It was checked in 1989 and 1995 and there is no evidence one way or the other as to what happened before then.

Good reason. The inquiry officer is also required to ascertain whether or not the applicant has good reason to hold the firearms and ammunition which he seeks authority for. I won't repeat what I have already said in this regard.

All of the inquiry officers who gave evidence to the Inquiry spoke of the steps which they would take in this respect. None of the officers simply accepted the applicant's or Hamilton's declaration that he was a member of a club. Anne Keenan, Lesley Johnston and John Brown who dealt with the 1977, 1986 and 1989 renewals, could not recall the particular inquiries but said that it was their practice to check club membership where an applicant's reason for seeking authority to hold/

hold and acquire the firearm was for target or competition shooting. They stated that it was their practice to do so by contacting the club to confirm membership. The inquiry officers who dealt with the 1992 and 1995 renewals were able to recall their inquiry. Norman Lynch stated that it was his practice to contact the club secretary of Stirling Rifle and Pistol Club to verify membership every time an applicant sought authority to possess or acquire a handgun. In 1995, Constable Anderson did not contact the club to confirm that Hamilton was a member. However, she states that she had sight of Hamilton's membership card for the club and was satisfied from that that Hamilton was a member. She was also part of an overall system whereby the Firearms Department of Central Scotland Police held a record of the membership of the Stirling Rifle and Pistol Club. On a member failing to pay his subscription, the club informed the Firearms Department. That was Crawford (Day 4, pp.409-410). At p.412 Crawford also said that there is a club rule that if anybody is expelled the police are informed. There was contrary evidence on this by Mr. Cole (Day 17, p.2134). I would, however, respectfully submit, sir, that Crawford's evidence should be preferred to Mr. Cole's. Your lordship may recall that Mr. Cole was also the witness who indicated that purchases of ammunition at the club, even if consumed in the club, would require to be recorded on the member's firearm certificate. So in two respects Mr. Cole seems to be at odds with what might otherwise be thought to be the weight of evidence.

We do know, however, from Mr. Cole that Stirling Rifle and Pistol Club had access to ranges suitable for the use of the firearms which Hamilton had authority to possess and acquire.

The amount of ammunition which Hamilton was authorised to purchase at any one time and the amount he was entitled to hold has already been touched upon. In 1987 he sought, by variation, to possess 1500 rounds and to acquire 1000. Constable Goldie dealt with the inquiry and he has no recollection of this part of the inquiry and the only explanation, and this is with hindsight, he could give for the increase is that the amount of ammunition purchased by Hamilton in previous years was substantial and disclosed that he was doing "a lot/

lot of shooting". There are other speculations which we might have. It may be, for example, Hamilton shot several hundred rounds at a time. Mr. Bell (Day 4, pp.445 and 460). It may have been in 1989 the previous guidance was still very much to the fore in the minds of officers and the figures which were contained in this guidance used as a reasonable figure. That however, sir, is pure speculation. All of the inquiries involved from 1987 onwards comment on the detailed security arrangements.

Once the inquiry has been concluded, the RL3A is completed and then passed up the chain of command. The constable's immediate line manager is the sergeant. It is the sergeant's task to review the RL3A and ask such questions of the constable as he considers necessary to satisfy himself that the constable has completed the inquiry satisfactorily. Inspector Binning, the sergeant responsible for the supervision in 1986, details this relationship. On Day 10 at p.1262 he detailed the checks which he would make of a constable and the circumstances in which he would consider it necessary to do so. The level of scrutiny which is applied depends on the confidence and trust which the sergeant has in the constable. That trust will be developed over a number of years as the sergeant becomes familiar with the constable in question. The sergeant and other superior officers are also available for consultation should the constable experience a problem in the course of the inquiry. Anne Keenan (Day 10, p.1251) speaks to the fact that she would refer any problems to the supervising officer for advice. Mr. Allan (Day 9, p.1136) also states that he would expect the constable to liaise with his or her immediate superior if a problem arose. The interrogation by the sergeant ought to reveal any facets which perhaps the constable, through lack of experience, does not appreciate are problems. Mr. McMurdo (Day 13, pp.1586-1587).

As the RL3A passes up the chain of command, the inspector and chief inspector, as the system was for the 1995 renewal, checks that the form has been completed accurately and will also input any information or intelligence which they have on the applicant from their respective positions. Alan Cassidy, for example, the inspector involved with the 1977 application explained/

explained that in discharging his role as inspector he would input any information which he had on the applicant (Day 9, p.1162). Hugh Paterson (Day 10, p.1268) the chief inspector involved in 1989 also confirmed that he would input his knowledge of the applicant as the RL3A passed through him to the senior officer. Further, should any additional information be considered necessary to allow a recommendation to be made by the Divisional Officer, this should be identified in the course of the passage of the form through the chain of command. For example, in 1986, where the application included a request for authority to acquire a duplicate .9mm calibre firearm, the constable made no comment other than to confirm that she was satisfied that the applicant had good reason. A superior officer subsequently noted the request and returned the RL3A to the sergeant to ascertain the applicant's reason for the request for duplicate calibre.

The form then reaches the Divisional Officer. It is the Divisional Commander's responsibility to make a recommendation to the Chief Inspector of Firearms to grant or renew. Robert Allan, the chief superintendent who recommended grant in 1977 explained the process which he would complete before recommending grant (Day 9, p.1136). He said that he would trust the inquiry officer working with the support of a sergeant to carry out proper inquiry. He would expect his attention to be drawn to the inquiry only if there was something amiss. Superintendent Matchett (Day 10, p.1271) also confirmed this to be the role of the Divisional Officer, as did Chief Superintendent Moffat who explained that, as Divisional Commander, he would review the RL3A to satisfy himself that all checks had been carried out and that the details noted in the form were correct and, unless he had information to the contrary, would recommend grant. The Divisional Commander will not look behind the officer's answers to the RL3A and will accept that the necessary inquiries have been completed.

It is therefore quite clear, sir, that considerable reliance is placed upon the constable in completing the inquiry and the sergeant in properly supervising the constable. In our submission, the delegation of inquiry to a constable is a reasonable and necessary procedure for Central Scotland Police and other Forces to adopt. Whilst it/

it proceeds upon trust in the police constable, that is no different from the majority of police work where the investigating officer is a police constable working with the support of a police sergeant. In all police work, including firearms inquiries, senior officers must be entitled to rely upon a constable working in the system. The constable is supported by an immediate superior and by a chain of command available for consultation and assistance should the need arise. The sergeant, who is in immediate contact with the constable, is best placed to gauge his or her capabilities and to supervise the inquiry carried out by him or her. For that role to be repeated elsewhere in the chain of command would be inefficient and would mark the firearms inquiry out from other inquiries carried out by the police. It is submitted that there is no justification for the firearms inquiry to be distinguished in this way. The investigation required is well within the capabilities of the constable and the sergeant. Mr. McMurdo speaks to the foregoing on Day 13, pp.1586-1588 and indeed elsewhere in his evidence.

The procedure is different when the inquiry is conducted by the firearms examiner. The RL3A completed by him does not then follow the same chain of command. It does not pass through divisional officers. The current position is slightly different from that in place in 1992. However, in 1992, Norman Lynch reported directly to the Chief Inspector for Firearms who was at that time Ian MacKenzie. Mr. MacKenzie (Day 10, p.1225) explained the good working relationship which he developed with the firearms examiner. The chief inspector was available for consultation on a daily basis and a one-to-one relationship was developed. He described a composite role in which he performed a similar function to the sergeant, supporting and assisting the examiner and the sub-divisional officer, checking proper completion of the form.

The current position, sir, and I am not sure if there is actually evidence in the inquiry on this, is that the firearms examiner on completing his inquiry into the renewal will pass the RL3A and the application form to the Firearms Department for administrative checks and a review of the firearms file to be carried out. On this being completed, the certificate will be passed to the Depute Chief Constable/

Constable for signature. Only if there is a perceived problem will the file accompany the documentation. No other police officer will routinely be involved. This system has been introduced as part of the civilianisation drive and did not operate for any of the renewals and the forms which have been scrutinised in this Inquiry.

In 1992 and 1995 the paperwork then passed to the Firearms Department. Once there, the role of the Department is the same whether or not it has been completed by Divisional Officers or the firearms examiner.

Maureen Johnston (Day 11, pp.1407 and others) explained the operation of the Department. The applicant's file is maintained by the Department. The file should contain the previous certificates and applications. It should also contain any other information relevant to the applicant. That is Mr. Mather (Day 9, p.1080).

As Mr. Mather explained, in terms of the Force Standing Orders any information gathered by police officers relevant to the holding of a firearm should be communicated to the Firearms Department. Ian MacKenzie (Day 10, p.1198) confirmed that he would expect any information which suggested that the applicant might be a danger with a gun to be on the firearms file.

Maureen Johnston explained the role which she played, that when the RL3A is received by her she checks the file to ensure that the historical paperwork tallies with the application form and the details recorded on the RL3A (pp.1407-1408).

Mr./

11.00 a.m.

Mr. Mather explained that if on review the file disclosed that material had been placed there during the currency of the certificate being renewed, then that would be brought to his attention (Day 9, 1080). Similarly, if any trace has been found on PNC, SCRO, or any relevant trace on Criminal Intelligence, it will be attached to the RL3a and, together with the file, drawn to his attention.

Until May 1995, and at all times during consideration of Hamilton's various applications, the firearms file and the RL3a were passed together to the Chief Inspector of the Firearms Department.

Mr. Mather and Mr. McKenzie both spoke to that role (Day 9, 107), and Day 10 1225 respectively).

If there were no problems the certificate would be passed to the DCC. He would not receive the file. Only if a problem had arisen would the file be passed to him.

It therefore is in the hands of the Chief Inspector of Firearms that information input from both the enquiry officers and administration comes together, and a final recommendation by the Chief Inspector is then made to the Deputy Chief Constable.

With respect to Mr. Richardson, on a proper analysis of the evidence there is no question of the file not being referred to as a means of assessing the applicant. This appears to be the function which Mr. Richardson says falls between two stools. In my respectful submission this does not appear to be supported by the evidence. Both the Firearms Department and the Enquiry Officers had their respective roles to play in the assessment function, and the Chief Inspector of Firearms received their respective inputs. On Day 19 (2301) Mr. Richardson declined to say that good practice required the Enquiry Officers to have the file, or indeed for anybody in the divisional chain of command to have it. He said -- and I quote -- "The whole system must be sound. The Enquiry Officers make good enquiry under guidance and that the Firearms/

Firearms Department are proactive in checking the firearms files so that they can play their part in providing good information as the certificate progresses up the tree".

With that statement we respectfully agree. It is submitted that the system operated by Central Scotland Police meets the standard there specified.

The Central Scotland Police procedure permits the Chief Inspector -- that is the Chief Inspector of Firearms -- to consider any available information bearing on the applicant's suitability to hold a firearm, the historical documentation, and the Enquiry Officer's Report, following due support having been given by other officers, and in particular the Sergeant.

In saying this, it is accepted that in the case of Hamilton's renewals in 1992 and 1995 this procedure failed. Information relevant to Hamilton's suitability, namely the Hughes' memo and the information relevant to the Linlithgow incident, were not on the file, and therefore not brought to their attention. This was an error, but as I will submit later, Sir, nothing flowed from that error, because Mr. McMurdo was already fully conversant with both these aspects.

However, it is necessary to add that the omission of this information from the file would not have affected the decision in 1992 and 1995.

Ian McKenzie (Day 10, 1199 and 1200) stated that although he would have expected the memos relative to these incidents to be brought to his attention, they would not have affected his decision. And Mr. Mather gave similar evidence (Day 9, 1121 and 1122).

A recurring criticism of the enquiries has been their alleged failure in 1989, 1992 and 1995 to identify Hamilton's non-purchase of commercial ammunition between 1987 and 1995. This, it is said, would cast doubt on the usage, and hence on good reason -- and I don't wish to trample over that ground again.

Mr. Richardson accepted that if non-usage/

usage was not a relevant consideration, then many of his criticisms would no longer be valid (Day 19, 2338).

Not only did he criticise CSP for not initiating a procedure to allow non-usage to be identified, but he evidenced many of his criticisms by the fact that non-usage had not been identified. For example, he rejected the Firearms Department claim that they do review the file on the grounds that, had they done so, they would have identified non-usage (Day 19, 2339).

If non-usage was not something which they were instructed to look for, then the reason which he gave for concluding that the Firearms File had not been considered would disappear.

One is then left with the evidence of the Central Scotland Police Officers that it is looked at. However, that was only one aspect of Mr. Richardson's criticisms. He continued in regard to the overall procedure. If we have understood his criticisms correctly, they can be summarised as a failure of the system to support the Enquiry Officer by way of adequate Guidance and direction.

In making this criticism Mr. Richardson assumes that the limit of the guidance given to an enquiry officer is the Standing Orders and the RL3a. He ignores the structure in which the officer operates and in particular the relationship between officer and sergeant -- that is police constable and sergeant.

As Mr. Richardson said in his evidence, one cannot look at one part of the system in isolation. One must look at the whole (Day 19, 2293).

Mr. Richardson has either failed to do that when considering Central Scotland Police's procedures, or it is submitted he has not analysed the evidence correctly -- or perhaps it is both.

There is considerable support for the view that the analysis of the evidence as contained in his report is unfair. I don't intend to go through it line by line, Sir, pointing out the inaccuracies/

inaccuracies. If I can perhaps just be allowed to refer to one? On Page 35 it is recorded that in connection with the 1992 renewal Hamilton "Was never asked to demonstrate that he was a member of a Gun Club". The statement of Mr. Lynch, who dealt with the 1992 renewal, with which Mr. Richardson was supplied, stated: "I can confirm that I would have contacted the Secretary of Stirling Rifle & Pistol Club, Mr. Gordon Crawford, to ascertain from him if Mr. Hamilton was a member of the aforesaid Club".

When Mr. Lynch gave evidence (Day 11, 1322), he confirmed what he had said in his statement. It is thus submitted that the report at Page 35 does not fairly represent the content of either the statement or the transcript.

The RL3a is not intended to direct the officers, as stated by Mr. Richardson, but only to record the outcome of their enquiries. Mr. Richardson accepts that the investigation of a firearms application or renewal is well within the capabilities of a constable, provided suitable guidance and support was available to them.

That the officers did receive support and guidance from sources other than the RL3a and Standing Orders is clear from the evidence of those constables involved in renewals who have given evidence at this Inquiry. Despite Mr. Richardson's criticisms that the pre-1989 RL3a and Standing Order did not instruct or direct a check of Club membership, the evidence of officers Keenan, Bell and Brown, which we have already rehearsed, entitles a conclusion to be drawn that it was their practice to contact the Club to verify membership.

Further, although no PNC or SCRO check was specified on the form before 1990, Constable John Brown (Day 10, 1275) did make a check and recorded on the form that there was no trace of SCRO -- or on SCRO.

The other officers were never asked whether they checked PNC, SCRO or Criminal Intelligence, and therefore no conclusion can be drawn.

To say that a police constable requires guidance before he will know to check PNC and SCRO, as/

as Mr. Richardson did, (2290) is perhaps a little surprising. If officers have the training and experience which (2296) he said they had, it would be surprising if they did not know to make such a check.

However, it is important to put Mr. Richardson's criticisms of the form in the correct time frame. The particular criticism regarding PNC and SCRO checks is historical. The 1990 form improved on the 1977 form, and did provide a reference to PNC or SCRO. Notwithstanding his criticism of the form RL3a for its lack of "support", Richardson does anticipate that an officer's training will have enabled him to perform, and know to perform, tasks such as checking at Gun Clubs.

He says -- and I quote -- "The police officer has training and experience to allow them to expand enquiries if they feel it is necessary" (day 19, 2296).

Mr. Cameron shared that view. When Mr. Bonomy put the RL3a to him and invited him to criticise it, he declined to do so. Under reference to the post-1990 form the following exchange took place: "Question: One would be worried, would one not, as to how the Enquiry Officer would find out whether or not he was a suitable person to hold a Firearms Certificate?" The answer given was: "I would hope a professional police officer at operational level would know there are certain issues of unsound mind and intemperate habits would prohibit someone from acquiring a weapon. I would hope they would have an awareness as to what that question meant".

Mr. Richardson's main criticism of the form post-1990 appears to be that it does not encourage the Enquiry Officer to detail the name of the Club of which the applicant claims to be a member, nor does it encourage him to attach documentary evidence. Again, despite this criticism, the Enquiry Officers post-1990 did specify the Club on the RL3a, and did confirm membership.

Apparently, within the system in which they operated the Enquiry Officers found the guidance/

guidance and support which Mr. Richardson considers they needed to complete the enquiries in spite of the perceived or alleged shortcomings of the RL3a and Force Orders.

It is submitted that Mr. Richardson's criticisms are of form rather than of substance. We accept that a review of forms, particularly pre-1990, does not now allow an appraisal of the questions asked and answers received.

However, the forms were never intended to record an interview. It was intended that they record the outcome of the enquiries, and thus allow a contemporaneous decision to be made.

It would be unfair to judge a form on its ability to report information up to 19 years after it was utilised.

However, it has to be said that a system which cannot be improved does not exist, and Central Scotland's own procedures demonstrate how a process of evolution has led to improvements to the form and procedures as problems have arisen and been resolved.

Mr. Richardson's comments will be considered and adopted where it is thought that they are appropriate.

Mr. Richardson accepted that the Strathclyde form did not meet the standards he judged SCP against, and acknowledged that improvements could be incorporated in another revised form. It is submitted that his comments in relation to the RL3a should be viewed in the context of the form being perfectly adequate for use within the system operated by Central Scotland Police but, like the Strathclyde equivalent, capable of improvement. Support for this approach is obtained when one remembers that Her Majesty's Chief Inspector of Constabulary only praised the form.

Mr. Richardson in his evidence (Day 19, 2314 to 2316) made clear that the procedures which he was judging Central Scotland Police against were not procedures adopted by Strathclyde, nor indeed any other police force. They were procedures which he had derived from first principles in the two-week period/

period which he had been allowed to carry out his investigation and report.

Mr. Richardson states at Page 14 of his report, and in evidence (Day 19, 2300) that it was not the norm for either Enquiry Officers or Firearms Department to review the applicant's file to assess suitability or good reason at the time of renewal. He seems to conclude from this that the function of assessing "suitability" and "good reason" falls between the two, with each assuming that the other completes the task.

While we accept that the file was not reviewed by Divisional Officers when carrying out their enquiries, it is not fair, nor indeed is it logical, to conclude from that that they did not address the question of good reason or suitability, or that they assumed that it would be done elsewhere.

The evidence before the Inquiry quite clearly shows that Divisional Officers were aware of their responsibilities when undertaking the enquiry and did make an assessment of suitability and good reason.

This criticism again seems to be born of Mr. Richardson's assumption that scrutiny of past usage of the firearm and ammunition is essential before a renewal application can be granted.

Sir, while no doubt the system which he advocated was a perfectly sound system, it would be unfortunate if this Inquiry was to consider that there was only one way in which the obligations incumbent upon a Police Force in terms of the firearms legislation could be implemented.

Allowance must be made for the differing sizes of Forces and their particular cultures. An attempt was made to cross-examine Mr. Richardson on the issue of culture, but he didn't seem familiar with the concept. It is respectfully submitted that it is essential that police forces be entitled to develop their own procedures.

Further, Mr. Richardson was very keen on the concept of check lists. Whilst no doubt check lists have their place, they also have their limitations./

limitations. In another context you will have come across the situation whereby too readily the completion of a check list can become an end in itself, and too readily can the user of a check list "switch off" and fail to bring the appropriate level of thought to the process under consideration.

It has already been submitted that Mr. Richardson's analysis of the evidence is open to criticism. It would be unfortunate, however, if this was to be seen as a criticism of him.

By his own admission, he had only a two-week period in which to carry out the Inquiry, prepare his report and submit it. He had no opportunity to meet or interview those involved in the operation of the system. He had no opportunity to test if what he was saying were faults were truly faults and omissions. He had not read the transcripts, save for a consideration of Mr. McMurdo's the day before he gave evidence. He had relied on others to read the transcripts of his behalf.

In such circumstances it is not surprising that the analysis which he put forward of the system as explained by the witnesses takes a different form from the analysis provided in this submission.

Perhaps a better assessment of the system operated by Central Scotland Police can be found in the terms of the Thematic Inspection, and in particular the letter of the 25th November 1995 addressed to the Chief Constable from her Majesty's Chief Inspector. We can assume that that investigation was carried out without pressure of time. The procedures being inspected were quite clearly the procedures which were in place at the time of the 1995 renewal. Mr. Richardson accepted that the remit which he had was the same as part of the remit which those carrying out the Thematic Inspection were given (Day 19, 2323 and 2324).

It is perhaps therefore surprising that the criticisms found in Mr. Richardson's report are not echoed in that of the Chief Inspector of Constabulary.

One possible explanation is that the procedures/

procedures adopted by CSP in relation to Hamilton's various applications for renewals and variations are different to the norm. To an extent that is true, but the evidence suggests only in so far as the correct paperwork was not contained in the Firearms File.

What/

11.20 a.m.

What is clearly the case is that the form RL3a was identical in the course of both inspections. Mr. Richardson criticises it. HMCIC praise it -- at least in so far as it provides a facility for recording security arrangements. If they considered it deficient in other respects they would have said so: they did not. Therefore judged against the standard of the body which sets "good practice" the form passes muster.

In short, sir, it is submitted that the fuller and more thorough report was the report carried out by Her Majesty's Chief Inspector of Constabulary. It offered no criticism of the procedures and I invite you, sir, to so find.

I would like to move on to the various decisions which were made in respect of grant or renewal and the variations of Mr. Hamilton's firearms certificate. In terms of Mr. Hamilton's conduct, the first suggestion which can be made that his possession of a gun was likely to give rise to a danger to the public follows the 1988 camp at Inchmoan Island, Loch Lomond. There are two aspects of the evidence dealing with the pre-1988 situation and these are to be found in Criminal Intelligence under reference D2/L(iii) and D3/L(iii). In my submission, they are irrelevant. The first has its principal purpose to draw to the attention of police officers that Hamilton was a suspected homosexual. The second records that the contributor's estranged wife had not received a refund of a prepayment for the attendance of their child at a summer camp in circumstances which did not, ex facie the form, give rise to a refund at common law. Perhaps it is not surprising that Mr. McMurdo considered the content of the intelligence ingathered on Hamilton before computerisation to be something of which he was not proud. He felt it should not have been there at all (Day 12 - I489). That it did not find its way on to the computerised system represents the exercise of good sense by some individual unknown to this Inquiry.

Inchmoan Island Camp 1988 is the first of the incidents and I will try not to look at the facts in too much detail because they have been gone over at some length at the Inquiry but, in my submission/

submission, it is essential that we move away from a consideration of labels and we look underneath the labels to see precisely what it was that happened in the very events which it is said should have given rise to a revocation of Mr. Hamilton's certificate.

The camp at 1988 was said by Hamilton to be his fifty-fifth. No evidence has been led to contradict that, and the evidence from Mr. Williams two days ago provided some support for the view at least that there were a considerable number of camps. The main complaint arising from the holding of the camp was the conditions in the camp. Some boys claimed they were slapped by Hamilton who did not deny this but Hamilton thought it was necessary for discipline given that some boys were bullies, disruptive and cheeky. The boys were required to wear black swimming trunks in all weathers and this they continued to do even when Mrs. Haggart and Mrs. Reilly were in attendance. Significantly, sir, four of the boys refused to leave the camp and no parent was prepared to make a complaint against Hamilton. Indeed, some praised him.

When the papers went to Mr. Cardle, the Procurator-Fiscal at Dumbarton, he noted that there were certain discrepancies between the statements of the boys. They were precognosed, the discrepancies became greater, and the papers were marked "No proceedings". This was then made known to the police.

Meanwhile, Hamilton had complained of the manner in which the enquiry had been carried out by the two officers from the CSP who had investigated the matter. We then had the informal inspection by Inspector Michael Mill who met with McMurdo, prepared his report, and was aware that Hamilton had a firearms certificate. He did not have any grounds for concern that Hamilton should continue to be the holder of that firearms certificate (Day 8 - 965). McMurdo was away of Mill's view and expressed no concern. In fact, what he said was "The whole consideration was whether he was a suitable youth leader". This is McMurdo at Day 13, I557.

As we have heard, the informal report by Mill did not satisfy Hamilton and a formal investigation was then carried out by Inspector Keenan/

Keenan. Keenan spoke to a number of people who had not been spoken to by the original investigation, and some of the people to whom he spoke spoke highly of Hamilton's organisation, the food and equipment in the camp and his capabilities as a leader (Day 6 - 773 and 774). Inspector Keenan knew that Hamilton was a firearms certificate holder. He had experience of working in the Firearms Department. Had he come across a piece of information which may raise a question as to the suitability of Hamilton to hold a certificate he would have considered it his responsibility to draw that to Mr. McMurdo's attention (Day 7 - 784 and 785). No such question was raised. Only Hamilton's fitness to run a boys' camp was in question. It is thus submitted, sir, that the decision not to revoke Hamilton's firearms certificate on the basis of Inchmoan was correct and certainly within the scope of a reasonable exercise of discretion. There is nothing in the events which suggest that Hamilton was a danger to the public arising out of or in connection with his possession of a firearm. Looked at in context the slapping of the children could not be said to be of a gratuitous nature giving rise to any question of Hamilton's stability or aggression. His ability as a youth leader does not, it is submitted, reflect on his ability to be in possession of a firearm without danger to the public. In any event, views on his ability were mixed.

The next incident, sir, was that which took place in the house in Linlithgow. That was a complaint which was made to Lothian and Borders Police who investigated. They did investigate it and they chose to take no proceedings. In fact, there isn't even any evidence to suggest that they considered it worthy of a report to the Procurator-Fiscal. Because Hamilton was a certificated firearms holder in Central Scotland Police the details were sent to the Central Scotland Police Force and were drawn to Mr. McMurdo's attention because of his position as the firearms officer. He placed great reliance on the statements which had been taken by the Lothian and Borders Police, namely that there had been an invitation extended to Hamilton to go to the house with firearms, that none of the occupants of the house were alarmed, there had been no ammunition present, and the parents were happy that their children be photographed by them, the parents, in possession -- or rather holding the firearm/

firearm. I dispute that the children were actually in possession of it at the time and that possession was still that of Mr. Hamilton.

The only suggestion which came through the enquiry was that Sergeant McGrane thought that there had been some feeling that the householders were not at home with Hamilton bringing guns to the house. There is not a hint of that in the written statements and there is not a hint that that was drawn to Central Scotland Police's attention.

It is submitted, sir, that that event should not give rise to any suggestion that there be a revocation although with hindsight Mr. McMurdo was prepared to accept that one reasonable course of action which he may have taken would have been the sending of a warning letter.

We then reach Milarrochy Bay 1991 Camp. Documents, of which there are many, disclose a number of complaints and it is essential these should be grouped into three groups. One is assault, two is camp supervision and the third is photographs. A report was sent to the Procurator-Fiscal at Stirling. After some discussion there was a decision to take no proceedings on the basis of both lack of criminality and not in the public interest. In my submission, sir, it is not difficult to see why that view was reached.

If I can take the three groupings, namely that of assault, camp supervision and photographs: in my submission, sir, viewed objectively it appears that one child caused a problem at the camp by gratuitously assaulting or bullying another on the football pitch. He was chastised for his efforts. Shortly thereafter he again gratuitously assaulted the same child and Hamilton chastised him more severely. The same child then threw a stone and hit another on the eye and he was again chastised. Many would view the conduct of Hamilton as wholly appropriate if proper discipline was to be maintained at the camp.

However, Detective Sergeant Hughes thought otherwise. He considered that the disciplining of the child constituted an assault and that it demonstrated Hamilton was capable of violence. It also formed the basis for Hughes' view/

view, expressed in his memo, that Hamilton was unstable in that he had demonstrated loss of control. However, Hughes did acknowledge that the chastisement of the children could rationally be viewed as the proper exercise of control by Hamilton (Day 7 - 909, Day 8 - 919 and 924). He also considered that Hamilton's chastisement of the child fell within the band of responses which might be expected of an adult (Day 8 - 918 and 924).

Sir, it is submitted that the assault or chastisement does not constitute gratuitous violence and that this conduct no more disqualified Hamilton as being considered unsuited to hold a firearm than it would a father who is a strict disciplinarian with his own child. On any objective view, it is submitted that chastisement of a child in the circumstances described does not demonstrate an unstable character.

The second section is that of supervision. These essentially are echoes of what was said of the Inchmoan Camp in 1988. In my submission, sir, these must be taken in the context that some parents were quite happy to leave the children at the camp. When statements were taken from parents, many were supportive of Hamilton (Day 13 - 1566 to 1567). However, in any event, lack of proper supervision at a camp does not, it is submitted, give rise to a concern that Hamilton was likely to cause danger to the public arising from his possession of a firearm.

One is then left solely with the question of the photographs and the subject matter of these photographs. None of the photographs taken by Hamilton at the camp were considered by Hughes to be indecent (Day 7 - 894 and Day 8 - 919). The weight of evidence does suggest that Hamilton was less than open in his dealings with the police. Photographs of six developed rolls of film were handed in to the police but there are reasonable grounds for believing that eight rolls were handed in to a photography shop for development. This does suggest that Hamilton was not being wholly truthful. No further attempt appeared to have been made to question him on that at the time.

It may be suggested that the failure to disclose the existence of the two rolls of film makes/

makes Hamilton a person dishonest in his dealings with the police and thus not a suitable person to be entrusted with a firearm. In fact, that is what is suggested. McMurdo did not expect that every firearms certificate holder needed to be honest in his dealings with the police (Day 13 - I601 and I602).

In light of some of the reported decisions it is submitted that this is not an unreasonable view.

Sir, in the case of Spencer-Stewart and the Chief Constable of Kent, to which I have already referred -- I accept this was a case dealing with a shotgun -- the Court held that notwithstanding offences for assault with occasional actual bodily harm, handling stolen goods, theft, obtaining property by deception and 15 other offences of a similar nature, all between 1976 and 1978, and a conviction for handling stolen property in 1987, the applicant was entitled to retain his shotgun certificate in 1988. It was a distinguished Bench and it was the present Lord Chief Justice who gave one of the leading judgments.

Handling stolen property is the English equivalent of reset, and according to Gordon on Criminal Law (Second Edition) reset is defined as "The retention of goods obtained by theft, robbery, fraud or embezzlement with the intention of keeping them from the true owner".

Sir, it is submitted that anybody who commits an act of reset could be described as a person who is scheming, devious, deceitful and untrustworthy. In Spencer-Stewart it was considered that although the applicant might well be given to the commission of offences, the offences in consideration were not such as would involve the "slightest risk or likelihood of use of a shotgun". That being so, the applicant was entitled to retain his shotgun certificate. The Chief Constable's view was not supported. Thus even with a description of the applicant fitting that given by Hughes to Hamilton, and in the case of Spencer-Stewart being 100 per cent accurate, plus a string of previous convictions involving violence and dishonesty, the Court of Appeal held that the applicant's shotgun certificate ought not to be revoked/

revoked. The Court went further and said the grounds would not have justified grounds for refusal to renew.

I accept, sir, that different criteria apply to shotgun and firearms certificates. Section 28 does not carry with it the proviso that a certificate shall not be granted to a person of intemperate habits, of unsound mind or otherwise unfitted to be entrusted with a firearm.

It/

11.40 a.m.

It is respectfully submitted, however, that given the test, the composite test previously discussed, the difference between the considerations in the mind of a Chief Officer of Police when considering the revocation or refusal of a shotgun certificate as opposed to a firearms certificate are not significant.

Viewed against the level of dishonesty displayed by Spencer-Stewart, Hamilton could be said to be at the other end of the spectrum; yet the Court of Appeal did not support the Chief Constable's decision to revoke. In such circumstances, it is submitted that McMurdo's decision not to revoke was clearly within the proper exercise of his discretion.

It is also, sir, significant to have regard to the timing of the memorandum. There is no evidence to suggest that the two missing rolls of film were considered sufficiently significant in September, 1991 to justify applying for a search warrant to see if the photographs not surrendered by Hamilton could be found at his house.

However, some nine weeks later, after a report had been sent to the Procurator Fiscal, and after informal indications had been made that there were to be no proceedings, and further that a complaint was made against Hughes' handling of the investigation by Hamilton, the missing photographs contributed significantly to the basis for Hamilton being described as "scheming", "devious", "deceitful" and "not to be trusted". As Hughes conceded, it was possible that in writing the report he was not as objective as he might have been had the complaint by Hamilton against him not been made. On being asked when he knew of Hamilton holding a firearms certificate Hughes said that he did not recall (Day 7, p.900). The Inquiry subsequently learned that as a matter of course when a report was sent to the Fiscal a check was made on SCRO to ascertain if there were previous convictions. Such a check discloses whether the subject of the search is a firearms holder (Day 14, p.1685).

It is submitted that it is reasonable to infer that Hughes knew Hamilton was a firearms holder by 6th September, being the date he submitted his/

his report to the Procurator Fiscal. Why he delayed in writing his memo until 11th November is not known. If he did know of the existence of the firearms certificate on 6th September, but waited until 11th November to express his concerns, one might wonder whether the concerns expressed were as strongly held as the memo made out.

At the time of its dictation Hughes would barely have considered it would be pored over to the extent it has, and that he would require to speak to it at a subsequent Inquiry of this nature.

McMurdo did consider that there was something in relation to the delay in informing him of the firearms certificate issue. He described it as a "pertinent" factor. It is clear from his evidence that he did not know exactly what to make of it (Day 12, p.1535).

Sir, the view expressed by Hughes of Hamilton in the memo relied "almost entirely" on his intuition as a police officer. He accepted that it might be difficult to put one's finger on hard and fast evidence to support the view expressed in the memorandum and that it came down to a gut feel at the end of the day (Day 8, p. 924).

On considering the papers after they had been submitted to him, McMurdo formed the same view. He agreed that Hamilton was a controversial figure, but felt the whole memo from Hughes was no more than an impression. There was no evidence to substantiate the conclusion. A gut feeling would not be enough.

You, sir, are able to look at the evidence. It is all there. All the papers which were available to both parties are before you, and I invite you to draw your own conclusions as to whether or not the memorandum can meet the evidence.

McMurdo, however, was not alone in considering that the content of the statements did not support what was said in the memorandum. Ian MacKenzie, a former superintendent of police, was of the same view. In the week before he gave his evidence he had been asked to consider for the first time the papers relating to Inchmoan and Milarrochy. He saw the papers which accompanied the report to the Fiscal by Strathclyde Police into Inchmoan and also/

also the papers accompanying Hughes' report to the Fiscal at Stirling. Neither incident would have caused him to revoke Hamilton's firearms certificate. He did not think the statements contained in the Hughes memo were supported by the evidence. He saw no evidence that Hamilton was unstable. He saw no evidence that Hamilton had assaulted a child due to cracking under stress, and he found no evidence that Hamilton had been dishonest to the extent that revocation was warranted.

McMurdo did not accept the description of Hamilton as painted by Hughes. He too had met with Hamilton in October, 1989 and had corresponded with him regularly thereafter as Hamilton pursued his complaint against the police. He knew Hamilton's argument in favour of maintaining a strict regime. He knew the argument for the boys wearing trunks. He had been able to form his own view of Hamilton's personality. He did not form the view that Hamilton was either irrational or unstable (Day 13, p.1559).

After consultation with his Chief Superintendent John Millar he chose to take no action. It was suggested to McMurdo that he ought to have spoken to Hughes before deciding to take no action. Had McMurdo not otherwise known of Hamilton and had he not met with the man it might have been unreasonable for McMurdo to have made no inquiry of Hughes. However, McMurdo knew Hamilton better than anybody else in CSP knew him. It could hardly be otherwise, given the volume of correspondence he had had from the man. He was able to read the full details of the incident. It is important to note that this was not the first time that McMurdo had received notice of complaints about the 1991 camp. He had been informed right at the outset, he had been briefed by Mr. Holden, Mr. Hughes' superior, from an early stage, and he had even received Holden's note of the 12th August. He continued to have dialogue with senior officers throughout the investigation. He was in pole position to assess the facts and come to a view. "I knew all about the case. I had read it. I had spoken to a senior officer" (McMurdo, Day 12, p.1510).

Sir, in all the circumstances it is submitted/

submitted that the memorandum prepared by Hughes was a memorandum which was not supported by the underlying evidence. It is the underlying evidence which must be looked at; it is not a description of the sort that one finds in the memorandum to which one must have regard; it is not a description which the Chief Officer of Police has to go on; it is the underlying facts he has to go on when he comes to a view about the suitability of an applicant to hold a firearms certificate. It is clear that McMurdo's view was correct.

We now turn to look at the events that occurred post-Millarochy. The first of these is that which occurred at Dunblane High School camp being run by Hamilton in 1992. That is the one where three boys inappropriately dressed tried to telephone their parents circa 10 o'clock at night.

Now, the circumstances of how they came to leave school have not been properly explored. It is perfectly possible that Hamilton was completely blameless. Which of us who can remember days at camp cannot recall pranks which by their occurrence might suggest carelessness on the part of those in charge but where the reality was that they occurred because of the devilment of youth. No school can be made 100% secure, since to do so would render the building to be a fire trap. Whether the boys therefore escaped because of Hamilton's lack of supervision or because they were particularly resourceful is not a question which can be answered.

The subsequent complaints to the police all centred on one theme, albeit with a few different strands. The principal theme was the taking of photographs by Hamilton at various boys' clubs. There is no evidence that the boys were concerned; their parents were. The incidents are summarised in D3/1(i), and I won't go through them here.

A report was made to the Fiscal at Stirling, and of considerable significance, a search warrant was requested but refused, which suggests to the police that there was no reasonable grounds to suspect a crime was being committed.

The police inquiries continued, and after initial reluctance the Scout Association permitted/

permitted access to their files. The purpose of the examination was to see if there was anything contained therein which would be of assistance to the general investigation.

The then Detective Constable Taylor noted certain views of Hamilton expressed in the file and attributed to Mr. Brian Fairgrieve. Taylor was particularly concerned with the description of Hamilton as being "mentally unbalanced". Taylor knew that Hamilton was a firearms certificate holder and he knew of the concerns which had been expressed by Hughes. He shared these concerns, but only because he relied on what had been said by Hughes (Day 18, pp.2179 and 2190). A meeting with Fairgrieve was arranged. Fairgrieve cannot recall this meeting (Day 4, p.480). When interviewed by Taylor, Fairgrieve described Hamilton as having grandiose delusions of his own ability and being a bully towards children. He said that a description of Hamilton as mentally unstable was not his view. A medical examination would have been required before such could be said (Day 18, pp. 2186 and 2187). Having grandiose delusions and being a bully did not cause concern to Taylor in relation to Hamilton's continued entitlement to possess firearms.

It is further submitted, sir, that having heard the evidence from the psychiatrists and psychologists, there was no evidence to support a finding of him being grandiose and a bully.

Further photographs came into possession of the police, and a further meeting was held with the Procurator Fiscal at Stirling. Again, the view expressed was that there was no criminal offence.

The officers now felt that the way to give some credence to the complaints which were being made against Hamilton would be if the clubs he was running could be stopped, and their efforts were in the future focussed towards that. Just to make sure that no stone was left unturned, Taylor made contact with the Metropolitan Police to see if they knew of Hamilton through their sources. This enquiry also drew a blank.

It is submitted that all of these investigations were thoroughly carried out by Central/

Central Scotland Police, with no stone being left unturned; but nothing was brought to light which should have caused any concern about Hamilton owning a gun or possessing a gun. There was no criminal activity involved, there was nothing more than suspicion regarding his activities at the club, and these suspicions centred on his exploits with a camera. The adverse comments made of Hamilton in the Scout file and which came to light during this investigation in no way impinge upon an individual's entitlement to hold firearms. Taylor's view on this matter, it is respectfully suggested, was correct, even if the information was not conveyed to McMurdo; and this we do not know, since McMurdo was never asked, and neither was Moffat.

However, sir, McMurdo was still concerned that these rumours and reports persisted, continued to be made, and he was not prepared to leave it there. He asked the then Inspector Holden to meet with Hamilton and to address the concerns of the parents. Sergeant Moffat and Holden met with Hamilton in October, 1993. During the meeting Hamilton remained calm and was "quite articulate". He was asked about the formation of a committee for the boys' club, but he evaded this question. Holden thought he was lying. He was challenged about being homosexual, which he denied. He remained composed, and as he had with McMurdo two years earlier, and justified the manner in which he ran the clubs and camps.

Holden's view of Hamilton's character following the meeting was that he was not unstable (Day 7, p.880). It had been this aspect which had concerned Holden most in 1991 in relation to the content of the Hughes memo. Holden acknowledged that if "unstable" correctly described Hamilton, then Holden did not consider him to be a fit person to hold a firearms certificate.

At this stage, sir, I would like to look at Holden's view in relation to 1991, since some time was spent on that by Mr. Campbell.

Holden agreed that the question which was posed by Hughes was a correct and appropriate question to pass up the line to those involved with firearms (p.871). What he says, however, was that he was relying on Hughes, since he had not met with Hamilton./

Hamilton. His view could only be a secondhand view, and Hughes' view was first hand. He agreed that if instability was correct then Hamilton should not have a firearm.

He did not agree in the cross-examination which was given to him by Mr. Campbell that if a person was a liar then that necessarily precluded him from holding a firearm. He did however consider it might be part of a reason for refusing a firearms certificate.

It is significant, sir, that after the meeting he had with Hamilton he did not think Hamilton to be unstable. He reported his views back to McMurdo after that interview.

Holden's recollection is that in the course of the discussion McMurdo commented that the opinion of Hamilton expressed by Holden was the same opinion as that of McMurdo, which he had formed two years earlier (Day 7, pp.879 and 880). McMurdo saw the view being expressed by Holden as a change in Holden's position (Day 7, p.1594). That would be correct if McMurdo previously thought Holden to be of the view that Hamilton was unstable, as stated in the Hughes' memo.

The next aspect which requires to be considered is that of the correspondence into which Hamilton entered with the police. One sees this in its full range in chapter K.

Now, sir, Hamilton took issue with the Scouts, the police and the local authorities, and on each occasion he did no more than exercise his legal rights, albeit with a dogged determination.

McMurdo was one of Hamilton's principal correspondents, and he eventually "lost his cool", as he put it, when he saw another line of correspondence opening, at Hamilton's instance, with the Scottish Office. This coincided with a complaint to McMurdo by P.C. Gunn, who was seeking advice as to whether he should take legal action against Hamilton in respect of some of the comments being made of Gunn by Hamilton in Hamilton's circulars to parents (Day 12, pp.1480 and 1524; Day 13, p.1569).

In/

In an effort to persuade the Scottish Office not to take up Hamilton's cause, and thus involve McMurdo in further correspondence, McMurdo wrote to the Scottish Office a letter dated 14th January, 1992 in rather intemperate terms.

The/

12 noon

The letter, however, served its purpose. It stopped the correspondence.

On your invitation, sir, McMurdo considered that he would choose to withdraw the words "evermore irrational outpourings" from the letter and generally tone it down (Day 12, p.1524).

In the whole correspondence, however, there is never a threat made by Hamilton. We have now seen the reports prepared by Mr. Baird who, having read the correspondence, did not consider it suggested that Hamilton was irrational. That is perhaps confirmation that McMurdo was correct to withdraw the passage which he did, sir, on your invitation.

Now, I think it was Professor Cooke who considered that the writing of the letter could even have been a release for Hamilton although I don't think that that was a factor which was considered by the police at that time.

Notwithstanding his comments in the letter, McMurdo did not believe the correspondence gave cause for concern that Hamilton would be untrustworthy. However, certain expressions in the letter seemed to give cause for concern to some of the parties at the inquiry and point to an opposite conclusion from that which was formed by McMurdo.

Something was made of Mr. McMurdo's use of the term "right minded people". It is a phrase which features in a number of McMurdo's letters and he acknowledged that he used it quite a bit. By so using it, he meant "ordinary people" (p.1570).

"Zealot" was another word used and defined by McMurdo as "somebody who pursues a cause with great determination" (p.1571). It is respectfully suggested that this is an accurate definition and it is also an apt description of Hamilton but not a description which necessarily implies that the man should not have a firearm.

You, sir, took up the description of Hamilton as being someone whose views lacked perspective at least in relation to Hamilton's dispute/

dispute with the Scouts. McMurdo thought he had been "churlish" in the use of that description, given the time given by Hamilton to his boys clubs.

It is interesting to note, sir, that although it is McMurdo's perception of Hamilton which is of relevance at this stage, nonetheless the Scouts in fact did view Hamilton as a rival at local level. That is Woolhead (Day 9, p.1066).

Complainers such as Hamilton are sadly not unique to the police as McMurdo described (pp.1572-1573). Michael Forsyth confirmed that this was the case in his experience as well. Ian MacKenzie on Day 10 was cross-examined on whether he considered that because somebody had made a complaint against the police or another authority which turned out to be without foundation, whether that would in his view justify revocation of the firearms certificate. MacKenzie was not of that view (pp.1216, 1218 and 1219).

Sir, it is submitted that McMurdo was justified in not considering the correspondence which he had entered into with Hamilton, and which Hamilton exercised as a legal right, as justification for revocation or refusal of Hamilton's firearms certificate. Had it been so revoked or refused, one can only imagine what would have been said by those who champion the cause of civil rights.

We then reach, sir, the 1992 renewal. McMurdo was on holiday at this time. It was dealt with by Adamson. Adamson was familiar with Milarrochy and he knew about Hughes memo although he hadn't seen it. He was aware of the view taken by McMurdo and he was in daily contact with McMurdo. Adamson was also aware of the 1988 Inchmoan incident. He was also familiar with the terms of the correspondence between Hamilton and McMurdo. He himself had correspondence with the Scottish Office in McMurdo's absence (Day 13, pp.1605-1609). The letter which he wrote, 105K, clearly demonstrates an intimate knowledge of the communings with Hamilton, albeit that the letter had been prepared by another member of the Force.

It may be suggested that the test applied/

applied by McMurdo when considering revocation would be a different test from that which Adamson required to apply when considering renewal. In particular, the requirement that he should be satisfied that Hamilton could possess a firearm without danger to the public safety or to the peace would technically not have been before McMurdo. Standing the submission I have previously made as to the composite test, that difference is one of form rather than substance.

Sir, it was further suggested that one should have regard to the cumulative effect of these events. In my submission, however, even if the events relating to Hamilton are looked at cumulatively it makes no difference to the decision. There are only two instances where it might be suggested there is assault and both are of the same genre. They are examples of over-chastisement of children. They were in 1988 and 1991 and in my submission, such does not give rise to an accumulation which results in a pre-disposition of violence to be concluded in respect of Hamilton.

The only suggestion of a cumulative effect can be, it is submitted, in relation to the incidents which occurred post-Millarrochy where one had a number of complaints made by parents who were suspicious of what motivated Hamilton to take photographs of their sons. On each occasion, however, there was never anything more than a suspicion that what Hamilton was doing was unwholesome. There was nothing tangible in any one incident. At the risk of being facetious -- nothing plus nothing equals nothing.

One must also beware of the bandwagon effect. There was a concern at this time that Hamilton might have been the subject of a witch hunt. McMurdo put it thus (Day 12, p.1489) "They (the complaints) all centred round the wearing of shorts and a bare top. There was no one single photograph that I have seen, and I have seen hundreds and hundreds of them, which are in any way indecent. Things almost had reached a witch hunt by that time. Rumours were circulating about the town but there was nothing, nothing at all, in all the photographs we looked at. There was not one we found that was in any way indecent".

Whether/

Whether a Chief Officer of Police can act on suspicions is addressed in the joint submission. It is said in paragraphs 42 to 45 on page 25 that if the police were given wider discretion to refuse certificates, they might find it easier to exclude applicants whom they suspected of being unreasonable. It is suggested that the police might take into account suspicions, incapable of proof, that the person is unsuitable. The Home Secretary and Secretary of State for Scotland have a difficulty with this proposal. They consider it would be unfair on the applicant if the suspicion turned out to be groundless. It was also suggested that the Chief Officer might have problems in sustaining his decision on appeal because the Courts could certainly expect him to have valid reasons for his decision.

Had Mr. McMurdo been taken to appeal, he would have felt the same way as George Robertson, the Shadow Secretary of State, felt when he took up Hamilton's activities with Michael Forsyth which he described (Day 15, p.1808) in the following way; "I have to say when confronted by Mr. Forsyth's questions to me about what precisely I was talking about, what precise evidence I had, what it was exactly I was complaining about, I found myself in the same difficulties that so many other people had, that it was difficult to put your finger on what people felt was wrong with Thomas Hamilton".

Based upon the totality of what was known in 1995, it is respectfully submitted that on appeal Mr. McMurdo would have had little prospect of being successful. In fact, sir, he would have had none. To have refused Hamilton's application would thus have been an unreasonable exercise of his discretion.

When McMurdo, therefore, came to consider the renewal of Hamilton's firearms certificate in 1995 he had to, and did, take account of all information available to him. He did not rubber stamp as was suggested yesterday by Mr. Campbell. In fact there is, in my submission, sir, not a jot of evidence contained in the transcripts to support that very serious submission. No evidence was suggested yesterday, no evidence was put forward to you, sir, to support the view that what McMurdo did in 1995 was a rubber stamping exercise./

exercise. One might have expected there to have been such a quotation if there was any substance to such a serious allegation. The true position, however, may be found on Day 12 at p.1503 where Mr. McMurdo was answering questions put to him by Mr. Campbell. What was said there by Mr. McMurdo was "I thought through the various actions which had affected Mr. Hamilton over the years and I signed the certificate". He acknowledged that it didn't take him a great length of time, a few minutes, but to suggest that what he was doing was rubber stamping is in my submission, sir, not supported at all by the evidence.

Further, sir, yesterday much was made of McMurdo not having had resort to the firearms file. Sir, he had much more than would ever be in this firearms file or any other firearms file. Perhaps because of the size of Central Scotland Police, he also was in charge of complaints and discipline. He therefore had all these papers to consider. They comprise four Lever Arches in this Inquiry. That perhaps is indicative of the small size of Central Scotland Police Force and it perhaps marks out why the procedures which are adopted in one Force need not necessarily be the best practice in a different Force.

Apart from the display of weapons to the family in Linlithgow, when McMurdo came to consider all the relevant factors he would have had to find that there was no evidence of any impropriety with a shotgun or a firearm. The letters by this time had started to tail off (p.1568). The three reports to the Fiscal had not resulted in any Court action, let alone conviction, this lending some support to the view formed by McMurdo of the various incidents. There had even been a refusal of an application for a search warrant, suggesting that there was not even reasonable suspicion that a crime had been committed. Furthermore, no senior officer who had met with Hamilton had considered him a danger with a firearm. Holden's view of Hamilton's character coincided with that of McMurdo after Holden's interview in October of 1993. Apart from the two incidents at the camps in 1988 and 1991, there was no suggestion of violence on Hamilton's part. Quite the reverse. Although not asked, it would be improbable if McMurdo was unaware of the incident when flour, etc., was thrown at Hamilton/

Hamilton and was borne by him with fortitude. No photographs were recovered of an indecent nature. A great many positive comments were made of Hamilton by others. There was never a suggestion of Hamilton drinking to excess. The only suggestion of drugs came from the master of clinical acumen, Mr. Fairgrieve, who in 1986 in a private memo, which he shared with nobody and prepared following a meeting with Hamilton, said he wouldn't be surprised if Hamilton was on psychiatric drugs. His medical records, that is Hamilton's medical records, disclosed that there was never any psychiatric disorder, he never was on drugs and the post mortem confirms this.

Given the foregoing, sir, it is submitted that McMurdo was entitled to hold the view that his only concern was whether Hamilton's actions towards the boys in the clubs and camps were totally wholesome and that he never dreamt that Hamilton would be dangerous with a firearm (Day 12, p.1552).

As Mr. Cameron said (Day 21, p.2488) "There is a practical difficulty, if there is no tangible, transparent, verifiable evidence then there is grave difficulty in taking any form of regulatory control".

It is submitted that in so far as Hamilton was concerned, there was no tangible, verifiable evidence to demand a revocation or refusal to renew his firearms certificate.

When one performs an administrative task such as McMurdo had to do and, sir, in my submission it is an administrative task and not a judicial function as was suggested by Mr. Campbell yesterday, there is no single correct course of action and I quote "The very concept of administrative discretion involves a right to choose between more than one permissible course of action, upon which there is room for reasonable people to hold differing opinions as to which is to be preferred". Those are the words of Lord Diplock in the case of SECRETARY OF STATE FOR EDUCATION AND SCIENCE v. TAMESIDE METROPOLITAN BOROUGH COUNCIL (1977) AC 1014, quoting from page 1064.

Sir, it is submitted that the decisions taken by McMurdo in the history of the file and, in particular, /

particular, the decision in 1995 to renew the firearms certificate were decisions which fell within the description of permissible courses of action.

It is perhaps easy, given the events of the 13th March, to say that there must have been a failure on somebody's part to allow Hamilton to retain his entitlement to possess firearms. To say Hughes was correct and McMurdo and the others were wrong is a great temptation. However, sir, to so say is to put the facts of 13th March into the equation. They should be excluded because otherwise it is being wise after the event.

If society allows handguns to be owned by individuals and possessed by them in their own premises, it is submitted that no system will be foolproof and prevent such an individual from making wrongful and sometimes murderous use of such weapons.

Sir, I would now like to address the culture in which Central Scotland Police operated. As with other police forces, they do not act in a vacuum. How they go about their business is conditioned by many external factors. Two major influences are the Scottish Office in its own right and acting through Her Majesty's Chief Inspector of Constabulary. Both of these bodies have in recent times been making their views known on the licensing of firearms.

The Government has extended the life of the firearm certificate from 3 to 5 years. HMCIC has been urging police forces to (a) introduce renewal of firearms certificate by post (b) abandon the need for a counter-signatory (c) civilianise the investigation of applicants (d) provide a quality service and value for money to the shooting community which the police are told pays for the service provided by the police in relation to firearms licensing and (e) set specific target times for the completion of a grant or renewal of a firearms certificate.

What does the foregoing, taken in the round, say to the police? There are two clear messages. (1) the renewal of a firearms certificate is more appropriate work for a civilian to/

to undertake and police officers are best utilised in other areas and (2) that the renewal of a firearms certificate should be made easier, cheaper and faster. The emphasis is on co-operating with the shooting community.

The Home Office requirements for there to be a proposer and seconder for membership of a gun club has been reduced to requiring a proposer only. The minimum probationary period for club membership has been reduced from six to three months.

Thus should you, sir, in spite of this submission find the procedures adopted by Central Scotland Police and the decision making function to be less rigorous than you would have chosen, the culture in which the Force operates must be borne in mind. If Central Scotland Police or any one of their officers did get it wrong, one must look to the top of the tree. It is from the top of the tree that example is given and the tone set. In terms of a police force that can mean in Scotland only one office. The Scottish Office.

Given the climate created by the Government in relation to the administration of firearms, it is grossly unfair for society to suggest that one individual police officer or group of police officers should shoulder the blame for something so horrendous as took place on the 13th March.

It/

12.20 p.m.

It is respectfully submitted, Sir, that renewals should not be by post, a certificate should last for three years, the counter-signatory provision should be strengthened, not abolished, and no pressure should be brought to bear to have an application for grant or renewal completed within a specified period. The position taken by the Government should be reversed. They should go through 180 degrees.

Finally, Sir, it behoves me to look at the causative effect, since you were addressed by Mr. Campbell on causation. Perhaps it is surprising at an Inquiry of this nature that one needs to address that.

However, we have already discussed the criticisms that have been levelled at the Central Scotland Police procedures, and our comments upon them. Some are accepted as valid, others are rejected.

It is submitted, however, that even if accepted in their entirety, none of the alleged failures of practice or procedure resulted in a decision to grant Hamilton a firearms certificate in circumstances where it might otherwise have been refused.

Whatever view is ultimately taken on the efficiency of the Enquiry Officers and Firearms Department in ingathering information on Hamilton, and in referring that information to the decision-maker, all relevant and available information which might have had a bearing on his suitability was given due consideration in the course of deliberations over Hamilton's firearms certificate. No information which might have influenced the decision and which could or should have been known to the decision-maker and was not, has been brought to light in the course of the Inquiry.

It might be suggested that Criminal Intelligence was not tapped as a source of information in the course of the enquiries, nor did it contain all the information which it might when it was so tapped.

It/

It is accepted that none of the various Criminal Intelligence entries recorded of Hamilton over the years ever made their way to the firearms file, nor did the Smith incident, Hughes' enquiry, nor the Taylor Report ever make their way to Criminal Intelligence. Criminal Intelligence was not regularly checked in the course of Hamilton's various applications for grant and renewal. When it was, it was thought to contain no information of relevance, and its contents were not referred to the decision-maker.

Until 1990 there was no Force instruction to review Criminal Intelligence. However, John Brown thought that he would have made such a check in 1989. If he did, by January 1989 a series of entries relating to Hamilton would have been disclosed to him.

He did not comment upon them in the RL3a, nor did he bring them to the attention of his superiors. It is not difficult to see why. Some of the entries which were on the manual system and classified as "Intelligence" stretch the meaning of the word to its limits. The purpose of the first entry appeared to be as I have already said to draw attention to Hamilton's suspected homosexuality; the second seemed to be from a disgruntled member of the Transport Police; the third is a brief summary of the Inchmoan complaint; and the fourth, fifth and sixth are simply newspaper cuttings.

However, had these entries been brought to McMurdo's attention he confirmed (I588 and I589) that they would not have influenced him nor made any difference to his decision. He did, of course, know all about Inchmoan, and the Intelligence could tell him nothing.

Between 1990 and 1994 the Force Criminal Intelligence system went through a number of changes -- and I don't propose to address you, Sir, at length on these.

It might also be suggested, Sir, that Ann Anderson's "gut feeling" should have been reported to her superiors. She did not consider it to be a matter which could be narrated on the RL3a form. She could not formulate her feeling into a reason to recommend refusal. She could not quantify the/

the feeling, but did say that whatever it was she would not have put him as any kind of risk (Day II, 1393).

However, assuming again that her decision in this respect was flawed, such a narrative would not have resulted in a different decision being taken in 1995.

Constable Anderson again could have told Mr. McMurdo nothing new. He knew all about Hamilton and of people's feelings about him. He also knew that whatever those feelings were, with the sole exception of Paul Hughes, they did not relate to him being a risk with a gun. His decision would have remained unchanged.

In summary, whatever flaws might therefore be alleged in the process of storing, recording and accessing information relative to Hamilton, or of the Enquiry Officer's efficiency in identifying and reporting upon that information, it made -- to use Mr. McMurdo's words -- "not one whit of difference".

A recurring criticism of Central Scotland Police procedures was their failure to address past usage of the firearms and ammunition in testing Hamilton's "good reason". This was a theme which permeated Mr. Richardson's evidence in particular. You have already been addressed, Sir, at length on this criticism, and the reasons for its rejection.

However, assuming again for the moment that he is correct and Central Scotland Police should have reviewed Hamilton's use of the firearms certificate to identify whether he was making use of his arms, what would such a review have disclosed? As previously submitted to you, he was making use of the firearms, and nowhere is it suggested in the Guidance or anywhere that there is any minimum usage. Indeed, there is even a reference in the Guidance to each case being determined on its own merits, and there being no arbitrary limit.

You have already been addressed on Hamilton's club attendance. In the absence of any specified definition or standard for "regular use", it cannot be said on the basis of the available evidence/

evidence that Hamilton would not have satisfied the "use" criteria or failed, even on the Richardson test, to establish good reason.

The evidence before the Inquiry does not allow us to say whether Hamilton could have satisfied the "use" criteria for every firearm he held. We have already discussed the fact that the procedures and records currently practised and maintained by gun clubs throughout the period of review would not accommodate such a check. Even if it had, it is reasonable to assume from Hamilton's attendance that he must have been using at least one firearm, and even on the stringent Richardson test, would therefore have satisfied "good reason" for at least one firearm. Sir, that was all it took.

Central Scotland Police did not make checks with gun clubs to enquire of the "behaviour" of an applicant before renewing his certificate. They did not do so with Hamilton. However, had they done so they would have been told nothing that would have justified refusal. Although Crawford, Smith, Campbell and Wood all gave evidence to the effect that Hamilton shot rapidly, his handling of firearms was always considered safe.

Even with the benefit of hindsight, the Stirling Rifle and Pistol Club could not identify anything in his behaviour at the club which should have prompted action by them. They were strict on safety and discipline, and Hamilton complied with those strictures.

If the club cannot now identify any behaviour which should have merited action, it is reasonable to assume that they would have expressed no concern had a police enquiry been made.

Whatever comments might have been expressed about the speed of fire, CSP would have been told that Hamilton was a safe and disciplined club member and that his behaviour gave the club no reason to take action or to reconsider membership.

In addition, CSP did not at any time seek a medical or psychiatric report on Hamilton. There was some suggestion that Mr. McMurdo might have questioned Hamilton's mental health in light of the copious and persistent correspondence which he received/

received.

However, even had such a referral been made we now know from the evidence the psychiatrists and psychologists have given to this Inquiry that the correspondence did not and would not have disclosed Hamilton as being mentally ill, or as having any personality disorder.

Indeed, even if he had been medically examined, as opposed to simply the correspondence being looked at, in light of the submission which I have already made on the weight which you, Sir, should attach to the psychiatrists' and psychologists' reports, it is improbable that anything would have come of such an investigation.

The amount of ammunition held has also been the subject of comment. The criticism appears to be that he held too much. We have already addressed you on this point, Sir, and I won't go over that again.

However, whether Hamilton had authority to hold or purchase too much ammunition is, it is submitted, neither here nor there. It took only 105 rounds to wreak the havoc of the day. These bullets could have been manufactured at home, had he chosen to do so. The component parts can be purchased without any authorisation or certification. As this Inquiry has already heard, home made bullets are just as fatal.

Finally, what if Central Scotland Police had not authorised Hamilton to hold a firearm? Can it be said with any confidence that this terrible tragedy would not have occurred, perhaps in a slightly different form? The answer to that question is No.

There are estimated to be 1 million legal weapons in circulation (Penn, Day 22).

Joe Jackson expressed the opinion that Hamilton was not the type of person likely to obtain one of these illegal guns. Unfortunately, or fortunately, depending on your viewpoint, Mr. Jackson's view as to the type of person Hamilton was appears to have been based upon what he had read and heard in the Press and media. While he was subsequently/

subsequently reminded by Mr. Campbell that he had received a summary of evidence, that did not appear to have weighed heavily in Mr. Jackson's assessment, and obviously did not come to mind when confirming the sources on which he based his opinion. Also, we never saw these summaries, and we were told they were selective.

Mr. Jackson's opinion was also based upon his knowledge of the criminal fraternity in Glasgow. It would appear, therefore, that what Mr. Jackson's evidence adds up to is that if Hamilton was the type of person which the Press say he was he could not have obtained an illegal gun in Glasgow.

Does this assist the debate? The Press reports can hardly be taken as an accurate character assessment and we do not know whether the criminal fraternity in areas other than Glasgow might have different criteria. Equally, one cannot exclude the possibility, as Mr. Jackson said, of Hamilton obtaining a gun from friends or acquaintances who attended gun clubs. Again, he appears to dismiss this possibility on the basis of assumptions formed from the media, not only about Hamilton's personality but about those he knew who held guns.

Jackson's opinion ignores the fact that Hamilton was a determined individual apparently so intent on his murderous acts that he planned them with great and meticulous detail. If an individual is capable of embarking upon such a deed with such dogged determination, and to have within him the capability of carrying it through in such horrific detail, down to the cutting of telephone wires to delay assistance, and the organisation of his guns and magazines to prevent any hitches, is it not fair to say that the acquisition of a firearm from somewhere would not have stood in his way?

Sir, I have already indicated that I do not propose to address you on the aspects of credibility and reliability of witnesses, since that has been very ably covered by the learned Dean of Faculty.

I do not therefore propose to say anything further to you, Sir, unless you have any further questions.

LORD CULLEN: Just one matter. You, in the course of your submissions, made some reference/

reference to what the law should be with regard to changes. I take it you don't want to add anything to that?

MR. TAYLOR: I don't, Sir. This morning a document was produced to Mr. Bonomy containing the lessons which have been learned by Central Scotland Police, and they do to an extent touch upon the aspects which might be thought of as requiring change.

LORD CULLEN: Is that before the Inquiry now, that document? I don't know what its status is?

MR. TAYLOR: I am quite happy it be before the Inquiry.

LORD CULLEN: Well, that means it is made public. Are you content with that?

MR. TAYLOR: I am perfectly content with that.

LORD CULLEN: So that there is no misunderstanding.

MR. TAYLOR: There is no misunderstanding.

LORD CULLEN: Well, it hasn't reached me yet. No doubt it will.

MR. BONOMOY: I am sorry. I thought this was a copy for me. Unfortunately, I have written markings on it.....

MR. TAYLOR: I have a copy here.

LORD CULLEN: Well, it can reach me in due course. And I take it that is adopted by you in so far as it bears on your position?

MR. TAYLOR: Indeed, yes.

LORD CULLEN: Thank you, Mr. Taylor. There is one other matter I should mention at this stage. I have received a written closing submission made by Mr. Steven, the solicitor who represented Ronald George Taylor, the head teacher, and/

and I don't think it is necessary for that to be read out, but I want to make sure it is noted publicly that has been received. Of course, copies will be made available to any member of the Press or the public who wants to see that. So that is part of the submissions before me at this stage.

I think that completes all the parties' submissions, which I think makes me now turn to Mr. Scoggins in case there is any matter you want to address me on in accordance with the invitation which I gave to you.

MR. CRUIKSHANK: Before Mr. Scoggins addresses you, my name is Cruikshank. I understand you are prepared to hear a motion from me at this stage to be allowed to address the Inquiry on behalf of those for whom I act, namely Stirling Rifle and Pistol Club, Callander Rifle and Pistol Club and their office-bearers and members.

LORD CULLEN: What is your object in seeking to address me?

MR. CRUIKSHANK: Simply to clarify some points which have been raised in the course of the addresses by the other parties.

LORD CULLEN: I am not sure what you mean by "clarification". Is there some error that you want to have corrected?

MR. CRUIKSHANK: There is a comment I can make, Sir, on their evidence -- correcting errors is indeed what I have in mind.

LORD CULLEN: Just to be quite clear, you want to respond, is that right, to what some of the parties have said over the last day or so?

MR. CRUIKSHANK: That is so. It will take a very short time.

LORD CULLEN: You do appreciate I don't want this to be used as an opportunity to state your case, which you have got already stated in writing -- you understand that?

MR. CRUIKSHANK: Indeed, Sir, I am very conscious of that. I am also conscious I have put in/

in a submission which I would not be repeating.

LORD CULLEN: How long are you likely to be in your comments?

MR. CRUIKSHANK: 10 minutes.

LORD CULLEN: What I think I will do, I will extend to you the same invitation as Mr. Scoggins, so if you like to address me first at this point, we will hear you first and then Mr. Scoggins afterwards.

MR. CRUIKSHANK: I am obliged. I act on behalf of Stirling Rifle and Pistol Club, Callander Rifle and Pistol Club and their office-bearers and members. My name is Cruikshank. I am a solicitor in private practice.

LORD CULLEN: Perhaps you could bring the microphone a bit closer to you.

MR. CRUIKSHANK: I said, Sir, I act on behalf of Stirling Rifle and Pistol Club, Callander Rifle and Pistol Club and their office-bearers and members. I am a solicitor in private practice in Aberdeen.

Those instructing me wish first of all to express on their behalf their heartfelt sympathy to the relatives of the deceased and to the injured parties in connection with this matter.

Both clubs are long-established, well-conducted, Home Office approved clubs. Such approval involves adherence to particular rules laid down from time to time by the Scottish Office.

Written submissions were prepared and submitted on behalf of both clubs, and they have been accepted as evidence to the Inquiry under Reference Nos. I54, for Stirling Club and I55 for Callander Club.

With reference to the overall submissions on behalf of the parties, I have the following comments:- Mr. Bonomy's submission makes reference to whether a probationer should be allowed to be range officer. This is a reference to the evidence of Nigel Bell (462, Day 4). Mr. Campbell in/

in his submission also made reference to this evidence. I would point out that Nigel Bell gave evidence in cross-examination to Mr. Campbell to the effect that he was a qualified range officer. This may be confused with the much more formal "range conducting officer" qualification, about which others gave evidence.

Associated with Mr. Bell's evidence is that of Mr. McCarthy, the Scottish Pistol Association Secretary (pp. 2561-2583, Day 21), who in answer to a question by Mr. Bonomy to the effect: would it surprise him to find a probationary member in charge of a rifle range, said that it would. He was not given the additional information from Mr. Bell's evidence, namely that Mr. Bell was a qualified range officer.

Mr. Taylor's submission included slightly misleading information about Thomas Hamilton's status as a member of the Callander Club, when he said that Mr. Wood (p. 442, Day 3) had given evidence that Thomas Hamilton was a member of Callander Club.

What I think Mr. Wood did say there in answer to a question from Mr. Bonomy to the effect "Did Hamilton become a member of the club?" was "I assume he did".

Further on in his evidence he stated that Hamilton attended the club for three to four years. Mr. Taylor also referred to Mr. Reid's evidence (p. 433, Day 3) in support of the proposition that Thomas Hamilton was a member of the Callander Club.

On/

12.40 p.m.

On reading this I notice that Mr. Reid claimed to have been the Secretary of the Callander Club for 30 years and said in answer to the question from Mr. Bonomy "Was Thomas Hamilton ever a member of Callander Rifle & Pistol Club? - Not to my recollection but I couldn't go back through the books as Central Scotland Police have them".

There is also evidence from John Gillespie at (Day 3 Page 347 and J. Moffat Day 3 at Page 354) to which Mr. Taylor did not refer tending to show that Hamilton was a member of Callander Rifle & Pistol Club. There is no direct evidence that he was ever a full member.

There is clear evidence that Thomas Hamilton was a member of Stirling Rifle & Pistol Club for a number of years and that he was proposed and seconded by members when he joined. There was some evidence that he arrived at the Stirling Club more or less by inheritance when a Club he claimed to have been a member of, but about which there was no evidence of his membership, ceased to exist. As a member of a Club existing at the time he would have been exempt, even by present-day Guidelines, from any probationary period in the Stirling Club.

Both Clubs would adopt the principal recommendations contained in submission No. 75 made by the Law Society of Scotland at Page 2. These are that the administration of firearms should be taken over by a National Firearms Licensing Authority. This would ensure that uniform standards were maintained throughout the country and a degree of expertise would be quickly acquired to the benefit of all concerned. The second matter pointed out by the Law Society of Scotland is that in their view no legislation can be implemented by the UK Government acting alone in view of the terms of the European Firearms Directive 91/477 which commits member states to harmonising firearms legislation. This directive has been enacted into the UK law by the Firearms Act (Amendment) Regulations, 1992. Both Clubs would, however, dissociate themselves from the view expressed at Paragraph 19 on Page 78 of that submission.

Those to whom to the Inquiry will report may/

may take this opportunity to once again consolidate and amend the Firearms Acts. There has been much written and oral evidence given about the shortcomings of the present law and I will not repeat it all here. I would point out in relation to air pistols, for example, that a glaring anomaly exists whereby if the same weapons, firing the same projectile at the same velocity, is propelled by a gas such as carbon dioxide, as opposed to compressed air, it becomes a Part 1 firearm for which a certificate is required. I think in Mr. Campbell's submission reference was made to hollow point bullets with the suggestion that they be banned. All long-range match rifle shooting is carried out using such bullets which have been found to be aerodynamically superior to solid point bullets in high-powered rifles.

It is the view of both Clubs that, apart from consolidation and amendments to deal with perceived anomalies, the existing law relating to grant and renewal of firearms certificates is sufficiently restrictive and would, if properly applied by Central Scotland Police, have operated to deprive Thomas Hamilton of his firearms long before the tragic events of the 13th March 1996.

I would finally submit that both Clubs were and are well conducted and properly run Clubs and that no criticism can be levelled at them or their office bearers or members for any of their dealings, acts or omissions in relation to Thomas Hamilton. That is all I propose to say, sir.

LORD CULLEN: Mr. Scoggins, perhaps before you begin you may give me some indication of what you are proposing to speak about?

MR. SCOGGINS: I think I will take 15-30 minutes but that depends really on how many questions you have for me. I had intended to deal with matters in two sections, first to take some of the points which came out yesterday during the submissions of Mr. Gibb and Mr. Taylor concerning such devious things as the meaning of the Section 27 proviso, the Home Office criteria, collecting, which you yourself raised, and that will take most of the time. I have a few observations on the closing comments made by Mr. Campbell and I think these will not take more than five minutes in total.

I would, sir, appreciate if you would be prepared to start after the lunch time adjournment for two reasons; firstly, we have just been given a copy of Mr. Gibb and Mr. Wilson's statements which I have not had time to study and, secondly in may be in fact I can make enquiries which may help on the Section 27 point.

LORD CULLEN: I am perfectly happy with that. We will rise now and resume at 10 to 2.

After an adjournment for lunch.

1.50 p.m.

LORD CULLEN: We will now resume. Mr. Scoggins?

MR. SCOGGINS: Thank you. Could I start by associating ourselves with all that was said yesterday by Mr. Bonomy and by others in their opening remarks. The shooting community in Great Britain numbers upwards of 1 million people, and is as affected as the rest of the population by the terrible events at Dunblane.

Sir, I am grateful for the invitation you have extended to assist the Inquiry, and I have very clearly in mind the terms on which the invitation was issued.

I think I can be brief. We have already lodged detailed written submissions, and I would confine my remarks to two areas, of which I think the first will be the most substantial: this will be matters which arose during the closing speeches of Mr. Gibb and Mr. Taylor and were explored further this morning, and I hope I can assist with some of these mysteries, as they sometimes are called; then also there were some observations made by Mr. Campbell in his own closing submissions. As a matter of courtesy, I have made Mr. Campbell aware of my comments, and I understand his position to be that he is content that I make them.

For the record, sir, I should tell you who I represent, because I do not represent all shooting organisations in Great Britain. In alphabetical order -- and purely in alphabetical order -- the Associations I represent are: The British Association for Shooting and Conservation; The British Field Sports Society; The Clay Pigeon Shooting Association; The Gun Trade Association; The Muzzle Loaders Association of Great Britain; The National Pistol Association; The National Rifle Association; The National Small Bore Rifle Association; The Shooting Sports Trust; and The United Kingdom Practical Shooting Association.

Sir, those Associations have a total membership of more than quarter of a million, and many more through affiliated clubs. Their interests cover/

cover the spectrum of recreational shooting: target shooting, stalking and sporting, and historical and antiquarian interest in firearms.

If I could turn to a number of matters which arose during the closing speeches of Mr. Gibb and Mr. Taylor, I start with the collecting of firearms. I think the question came from you, sir, as to how collectors are dealt with under the "good reason" criteria.

Sir, there was up until the late 1980s some dispute as to whether collecting was a "good reason", particularly with regard to what we would call modern firearms, firearms for which ammunition remains freely available. The present position is now set out in the Home Office Guidance at paragraph 6.13. I won't take you through that; I leave you, sir, to read it for yourself. In essence, if someone can prove that they are a genuinely interested collector, that would be accepted as a good reason for possession.

Chief Constables are directed to regard each case on its merits. Normally if a collecting certificate is issued no permission will be given for the collecting of ammunition. There is also a statutory condition which must be attached to a collector's certificate under the Firearms Rules 1989, paragraph 3(4A). That was added in 1992, and remains in force. Effectively it provides that the gun can be kept as a collector's piece, but must not be fired or otherwise used as a firearm.

LORD CULLEN: It doesn't require to be disabled?

MR. SCOGGINS: No, it remains fully functional.

I draw your attention, sir, to the special exemption which is given to certain museums -- those listed in the Schedule to the Firearms (Amendment) Act 1988.

LORD CULLEN: There may be some collectors -- and perhaps Mr. Penn is one of them -- who would like to try out their piece from time to time. What would happen in that event?

MR./

MR. SCOGGINS: In those circumstances the certificate would not be a collector's certificate. The collector would have to seek a variation to use his firearm and keep ammunition for it.

Could I now turn to the question of Home Office-approved clubs? Mr. Gibb suggested that a member of such a club, as provided in the Home Office criteria, could continue to shoot indefinitely without ever having to acquire or apply for a firearms certificate. That is indeed the position.

Section 15(1) of the 1988 Act provides in very simple terms that so long as a person is a member of an approved club and so long as the criteria for approval remain in force, then he may use firearms and ammunition at that club and in connection with shooting at that club as long as he wishes.

LORD CULLEN: I was thinking of someone who was not a member and who was not on the way to becoming a member.

MR. SCOGGINS: That was the next chapter I was coming on to, guest days and the guest days exemption.

Yesterday after the Inquiry closed Mr. Bonomy put to me a number of questions, and overnight I have done my best to answer them.

The current Home Office criteria has been in force since 1st January 1996, and that superseded all previous directions. I see you have got a copy there, sir. They are an implementation of criteria recommended by the Firearms Consultative Committee, which were implemented in 1991. "Guests" are permitted to shoot without having to produce a firearms certificate subject to certain restrictions, which you are able to read for yourself, and subject also to the local police being given at least 48 hours' notice of the intention to have a guest day. The number of guest days are restricted to no more than 12 per year.

The way in which this is done is that the "guests" can become a member for a limited period/

period, a member of the club, and they are therefore entitled to exemption in the first place under Section 15 of the 1988 Act.

Mr. Bonomy raised with me the question: are these criteria valid? If one looks at the firearms legislation, although there is specific statutory power for the Home Secretary and the Scottish Secretary to make the rules, there is no power for the Home Office to issue criteria for the approval of clubs.

Now, sir, I caused enquiry to be made of the Home Office yesterday afternoon, and the Home Office say they consider the authority to issue those criteria arises in Section 15(2) of the 1988 Statute. Having read sub-section (2) I do not think it would be for me to comment whether I agree with that view or not.

All I would say is that the criteria have existed in some form or another since 1920, when the first Firearms Act was passed, giving restrictions on possession. These criteria were only made public after 1979, after the Hungerford incident, but they have been around for 75 years. I do not suggest they were invalid, but clearly these have to be validly issued. I do not want to develop that any further.

Mr. Bonomy also mentioned to me that whether those criteria would allow shooting by non-certificate holders or guests does depend on the interpretation of the word "member" in Section 15 of the Act. The view taken by the Home Office is that someone who arrives for a guest day and is properly supervised is treated as if they were a member, and that seems to be acknowledged.

Sir, unless you want me to go further into the abyss I do not propose to say anything more about that.

LORD CULLEN: Does this apply to all forms of firearms, rifles, handguns alike?

MR. SCOGGINS: It will apply to all these firearms which are within the approval of the clubs.

Could/

Could I turn then to the meaning of "opportunity of using", which appears in paragraph 6.8(e) of the criteria? Three interpretations of that phrase have been put to you. If I can try and reduce them to their minimum, the first of these is that the certificate holder or the applicant simply has to say "I can use the guns which I want or which I hold", depending on whether it is a grant or renewal or variation. In these circumstances the questions of past use and future intention are irrelevant, as I think is Mr. Taylor's case.

The second interpretation is "I can use and I intend to use those guns, and I intend to use the guns", perhaps in the sense of "I hope to be able" rather than "I have a settled intention". I am aware the word "intention" has more than one meaning as well. In those circumstances, past use remains irrelevant, but future intention is relevant.

The third possible interpretation is the one perhaps Mr. Taylor was, for understandable reasons, least willing to accept, and that is that the shooter has to say at a renewal "I have used my guns, I can use my guns, and I intend to use the guns". That is only relevant on renewal of a firearms certificate, if one is talking of good reason for the firearms certificate being renewed.

Sir, from our standpoint, which of those is the current interpretation is perhaps less important than what you may recommend for the future. I fully appreciate that the correct answer is a matter of concern to Mr. Taylor's own clients.

Sir, I do not propose to add anything to what Mr. Taylor has said. All I can say is that we from our own researches are not aware of any authoritative ruling on the meaning of these words. There may well be somewhere, perhaps in the bowels of LEXIS, but we have not come across it.

The important thing for this Inquiry is that it has highlighted differences of view in relation to those words even within Scottish Police Forces. Those differences are in our experience mirrored by the attitude of Police Forces in England and Wales.

So/

2.05 p.m.

So there is no consistency and I suspect if you put these three interpretations to the 51 Chief Constables to interpret, you would find that there is a division between the three camps.

Of course, sir, if you put the question after these tragic events the answer might perhaps be a bit different than it would have been before but I don't think that I would want to comment further on that.

Sir, those differences are, in our view, cause for grave concern. Whichever is the correct interpretation of the words as they currently stand, it seems to do no credit to the firearms licensing system that there should be even the possibility of inconsistent views on what they mean. There should be a consistent view throughout England and Wales and indeed throughout Scotland.

LORD CULLEN: Just remind me, we are talking about the interpretation of the guidance?

MR. SCOGGINS: The interpretation of the specific words "opportunity of using".

LORD CULLEN: Yes, and those words themselves come from the guidance? That is where they have been created?

MR. SCOGGINS: Yes, sir.

LORD CULLEN: Can you remind me, does the guidance itself rest on some statutory basis?

MR. SCOGGINS: Sir, it does not. It is not made under any particular statute.

LORD CULLEN: It is rather remarkable we are discussing something which has no statutory basis whatever.

MR. SCOGGINS: Sir, I can tell you that within the shooting community and I think the police will be familiar with this, if the Home Secretary or the Scottish Secretary wishes to change a guidance he sends a letter called a "Dear Chief Constable" letter and that effects the change. I will say more about/

about that in a moment but it is not a statutory instrument and does not have the force of legislation.

Sir, the question of which of the three competing interpretations or views you favour is of course a matter for you but what we would say is that the question of past use and future intention should be relevant to the renewal of the certificate. Sir, we adopt the suggestion I think you yourself made that these should be considerations and not criteria and that each case should be treated on its own merits.

There are instances where people have not been able to use their guns for a considerable period. They might have been abroad for instance.

LORD CULLEN: Can I ask you one point that arises out of that. Talking about the future and talking about the middle of these three, the alternative one, concentrating on intention, if we assume that is to be the correct approach for the future, does that involve Chief Officers of Police in considering whether it is a genuine expression of intention? In other words, he might say "Well, I know that's what you say but I don't accept it for the following reasons".

MR. SCOGGINS: I think it does and I think it is in the same category as many other questions being put to an applicant where the answers are considered and the Chief Officer or whoever is investigating must reach a view on whether they are persuaded they are correct.

LORD CULLEN: The consequence of that I suppose is the Chief Officer of Police gets into questions of credibility.

MR. SCOGGINS: Yes, he might. Sir, I suggest he already has to do that in several other areas.

LORD CULLEN: So it is an administrative role but it might have a sort of quasi judicial function? - Yes, sir, and I understand what flows from that. That might perhaps depend on how the test is worded and how the investigation is conducted but I think, sir, those are/

are matters for you and not for me.

Sir, can I just deal with how Home Office guidance can be amended and the usual procedure for amending it because one of the things which I know you are acutely aware of and conscious of is that if reforms are needed, they should be able to be done swiftly.

Sir, you have already mentioned correctly that the guidance does not rest on legislation and therefore to amend them there is no need for a statutory instrument. Sir, if I can tell you how amendments are normally made. The standard procedure is for the Home Office to draft the amending words. That draft is then considered internally within the Home Office and appropriate advice is taken from ministerial departments and thereafter, if appropriate, the Treasury Solicitor. When the Home Office is content with the draft, it is circulated, as I understand it, to representatives of the Association of Chief Police Officers in England and Wales and its counterpart in Scotland. It is circulated for comment, sir. It will also probably be sent for comment to the Firearms Consultative Committee. When the comments have been received, and depending clearly upon how substantial they are, the Home Secretary will then draft his "Dear Chief Constable" letter which will be sent to all Chief Constables in England and Wales and an equivalent letter will issue from the Scottish Office.

Now, sir, in our experience that process can take between three and six months. So we say it might be open to you, say it would be open to you to present in your report a form of words with which you were content and which would reduce the amount of consultation required.

Sir, you might also think it appropriate, and I think it within your terms of reference, that if this is a matter you do consider to be urgent, to issue an interim form of words so that the consultation process can begin at the earliest possible moment.

Sir, I would just re-confirm that I do not hold the instructions of either the Home Secretary or the Secretary of State for Scotland but just/

just in our experience there may be ways of perhaps short-circuiting or accelerating what otherwise can sometimes be a lengthy process.

So that is all I say about the meaning of "opportunity of using" unless there are any other questions you have for me on that one.

Sir, can I grasp the nettle of Section 27 and the proviso. I don't want to raise your hopes by telling you I'm going to offer you an interpretation. It is really, sir, just to inform you that our researches have shown that the proviso in those terms has existed in legislation since at least 1937, when the 1920 Act was consolidated. I am not able to tell you whether they appear and if so in what form in the 1920 Statute, not currently able to tell you. But, sir, our researches have not shown any authoritative decision interpreting the burden of proof in that proviso.

Sir, I hesitate to try to look into the draughtsman's mind at a distance of two or three generations to see what was meant so again I would say rather what I said about the guidance to police officers and the Home Office criteria, that what may matter more is how these things are approached in the future rather than what they may have meant in the past.

LORD CULLEN: Before we turn to the future, I know Mr. Taylor's view was that on his approach it was rather questionable whether the proviso had added anything. He adopted a composite approach to it. I don't know whether that squares with your approach to it or not.

MR. SCOGGINS: One gets the impression reading Section 27 that it is an amalgam of a number of provisions which may have been drawn from other statutes. If one looks at, let's say, the question about unsound mind and intemperate habits and then adds the concluding words "or for any reason unfitted to be entrusted", there seems to be a slight problem there because one would have thought that unsound mind and intemperate habits are themselves reasons not to be entrusted.

LORD CULLEN: It does not even say "or otherwise".

MR./

MR. SCOGGINS: No, and it might be in that very last sub-sentence of the proviso perhaps it should say "or be for any other reason entrusted" but I think, sir, that is not only playing with words, it is tinkering with legislation.

The point I seek to make is not to try to give you an interpretation for the past because I don't think I can do that but to look at how these words could be approached in the future.

I would simply observe that if the burden of proof of not being of unsound mind and not being of intemperate habits were to be put on an applicant, it would require him to prove something of a negative.

LORD CULLEN: Well, I think Mr. Gibb was suggesting one might sort of split the thing into two parts.

MR. SCOGGINS: Yes, I am wondering whether it is appropriate perhaps to talk about a burden of proof at all because what one is considering here is a Chief Officer examining evidence in front of him. I think the burden of proof only comes into play when one has to look to whose job it is to collect the evidence.

LORD CULLEN: Of course, that may depend upon what information is put before the Chief Officer.

MR. SCOGGINS: Yes, indeed.

LORD CULLEN: And that of course may depend on what the future is, if there is a future, on matters of counter-signatories or referees as somebody suggested.

MR. SCOGGINS: Sir, I quite agree. I think the question is one of clarification. All I am saying is the words appear to have been there for the best part of.....

LORD CULLEN: I trust you are not asking me to draft or remodel Section 27?

MR. SCOGGINS: Certainly not, sir.

LORD/

LORD CULLEN: Because I think I have quite a few other things to do.

MR. SCOGGINS: Sir, I appreciate that.

Finally, sir, on this section of what I have to say, can I just point out to you, and you may already be aware, that the seventh report of the Firearms Consultancy Committee will be published tomorrow, the 11th July. If a copy has not already reached you, sir, I would expect it would reach you fairly swiftly through the Scottish Office.

I can tell you it does contain recommendations and comments touching on the events at Dunblane, including for instance the question of an Appeal Tribunal but, sir, I have not seen a copy of it myself and I can't tell you what else may be in it. So that concludes what I have to say about questions that arose during Mr. Taylor and Mr. Gibb closing.

Can I now turn, and I promise to be brief, to some observations made by Mr. Campbell in his own closing speech. Sir, Mr. Campbell suggested that there is a tension between the police duty to regulate firearms use and the pressure to provide what he described as "a level of service" to shooters. Mr. Campbell asked the question "Can we be sure that public safety will always be the paramount consideration?" (p.2926B). Sir, what we say to that is that even if that tension exists, it is not in any way unique to target shooting or regulation of firearms. There are many instances, sir, where regulators are put in that position in circumstances to do with public safety.

I mention simply three although I don't say it is a complete list. The Health & Safety Executive is in just this position in that it sees its job as not just enforcing and prosecuting but also advising and liaising. Sir, the Environmental Health Departments of various local authorities, we would say that such a tension exists there and the same would apply to the Environment Agency which is not just a police force for the environment but also has regular liaison with industry and commerce.

Sir, over and above that, I submit that the police function generally has to balance relations/

relations and liaison with law-abiding people and the enforcement of the law against those who break it so if there was a level of service to be given by the police, it is to be given generally to the community.

Sir, what I say is that the point made by Mr. Campbell that this tension is perhaps something special and justifies the point which he makes, I say there is no support for that. It is not a unique feature. Even if there is such a conflict and you would consider it to be of concern, then the solution we would see is that the police must be firm but fair. The shooting community not only understands that but would positively welcome it.

That, sir, is a matter for the police but the police must understand shooters and I adopt the words of Mr. Taylor this morning. I hope I don't take them out of context. He said the emphasis was on co-operation with the shooting community. Sir, we would adopt and echo those words.

Sir, Mr. Campbell also suggested to you that the current system of firearms control which dates from 1920 developed at a time when guns were few in number in civilian hands and were mainly held for purposes such as gamekeeping and game shooting. Sir, he asked whether those laws perhaps did not suit modern times. You will find these comments at 2927A of the transcript, sir.

The/

2.20 p.m.

The picture is there painted to you of few guns and no gun problem. But, Sir, that was not the position by any means.

In 1920, when the framework from which the current legislation derived its origin was being developed, there were vast numbers of guns in lawful ownership. Can I just remind you of the evidence of Mr. Penn (2630 to 2632), and the perhaps unexpected quote that Mr. Penn gave you from the Journal of Betatrix Potter in 1885?

Can I refer you also to several written submissions which describe the pre-1990 position, notably those of Mr. Greenwood, Mr. Mundy and Mr. Stevenson.

Sir, when the current framework was first devised some 76 years ago the practice of civilian target shooting was very widespread indeed. It had been fostered and encouraged in the early part of the century following the rather poor performance of conscripted soldiers during the Boer War.

It had been encouraged up to the First World War, and was encouraged long afterwards. So what I say is that Mr. Campbell -- and I understand his position -- Mr. Campbell would paint a picture to you of a society with few guns in civilian ownership. Sir, the position was if not entirely different, very significantly different from that.

Sir, Mr. Campbell also suggested the well-established link between licensed gun ownership and gun suicide, a point which was touched on by Mr. McEachran yesterday. I do not intend to say anything further than he did.

Mr. Campbell also suggested to you that the shooting community does itself few favours by refusing to accept change of any significance. He cited as leading examples the desire of shooters to keep weapons at home, and resistance to handloading of ammunition at shooting Clubs. The comments you will find at Page 2929 of the transcript.

A picture is painted to you there of a stubborn/

stubborn gun lobby, but can I say that Mr. Campbell's comment overlooks the evidence on those two particular points.

As to home-loading of ammunition, considerations of safety were mentioned by two witnesses, Mr. Penn (2609E), and Mr. McCarthy (2581C).

Neither of those witnesses was challenged on what they had to say about the need for concentration and the importance of being able to load ammunition in circumstances where one is not distracted. Both of them talked about safety.

As to home storage of firearms, can I direct you to Page 41 of the submission made by the Association of Chief Police Officers of England and Wales, in which in terms they say that having considered the other options, they still remain of the view that home storage is preferable.

That was a view, Sir, which was repeated by the ACPO president, Mr. Sharples in his evidence to the Home Affairs Committee on the 8th May this year.

So, Sir, if Mr. Campbell is suggesting that the resistance to hand-loading at Clubs and resistance to giving up keeping guns at home are in some way unsupported by other -- and I would say "Other independent" -- evidence, then, sir, I would say he proceeds on a wrong premise. So that is not evidence of a stubborn gun lobby in any way.

Finally, Mr. Campbell suggested that there is a need to prevent a gun culture developing before the number of guns in licensed ownership puts that beyond reach.

Those comments you will find at Page 2932D. He was commenting on certain omissions, as he saw it, from the Green Book.

If I can refer you to the Green Book, and particularly Page 3, Paragraph 6, at which the Government evidence says it is thought that firearms ownership has fallen since the 1968 Act came into force.

As/

As I say, that is quite a mild and modest comment, but I would mention to you some figures.

If you look at the written submission of Mr. Jan Stevenson, which is submission No. 139 in the official Productions, he gives figures for firearms certificates on issue in England and Wales taken from the official statistics.

Sir, in 1968, just before the Firearms Act of that year came into force, there were 216,821 (sic) firearms certificates -- that is not shotguns -- firearms certificates on issue in England and Wales. By 1993 that figure had dropped to 138,400.

Sir, can I take you, to come more up-to-date, to annex A of the Green Book, in which the figures for firearms certificates in England and Wales and Scotland are said to be at the end of 1995 there were 174,020 firearms certificates on issue in England and Wales and Scotland combined. I am sorry, with the notice given I haven't been able to give you comparable figures for the whole country for these three dates I have given. But if you look at the Government evidence, and if one looks at the statistics, the net growth of firearms certificates year on year is less than 1 per cent.

So the point I make is that to say there is a growing gun culture and growing number of guns is perhaps not a good or justified statement.

Sir, even today the number of firearms certificates on issue is substantially lower than it was some 28 years ago.....

LORD CULLEN: Just remind me -- the figures you are quoting, are they certificates?

MR. SCOGGINS: These are firearms certificates on issue at the end of each of these years.

LORD CULLEN: Can one get to what the underlying number of weapons is?

MR. SCOGGINS: Sir, this is a very difficult task, because as has emerged in this Inquiry there is only one certificate no matter how many/

many guns are on them. So what I would say is there is no evidence that I am aware of that the overall number of firearms has risen. But I would quite accept that the figures give us only certificates, that is people, they do not give us guns.

But I say even so the picture that Mr. Campbell paints for you is not one that is justified on the evidence.

Sir, in conclusion I simply say that the recommendations which you make in our view should be proportionate, proven by the evidence and practicable. Unless I can assist you further those are my submissions.

LORD CULLEN: Thank you very much Mr. Scoggins. That is most helpful. Thank you for responding to my invitation.

Now, there is one matter at this stage I would like to raise really for my own assistance, if I can receive any.

During your submission, Mr. Campbell, in support of your radical approach, you did make some reference to certain research material, and then I think Mr. McEachran yesterday referred to other material. If you have any response you would like to give me on that for my own benefit, I would like to have it before I embark on the task of looking at that material myself.

MR. CAMPBELL: Yes, thank you, Sir, for that invitation.

The passage in my learned friend Mr. McEachran's submission I think is at Pages 3026 to 3028, where he deals with the question of whether or not there is a link between gun availability and harm flowing from guns.

In reply, firstly in the Green Book itself, the evidence from the Home Secretary and the Secretary of State for Scotland, it makes reference in annex G, if I might invite you just to look at that annex for a moment. It is at Page 73 -- and note the authors of this work. This is a note by the Crime and Criminal Justice Unit of the Research Statistics/

Statistics Directorate of the Home Office. And the purpose of the work is to consider research done to see how far gun availability is linked to the level and nature of violent crime.

Sir, this would appear to be a review of the available academic work and a review carried out by an independent Government body.

Towards the foot of that page in the final paragraph the authors warn that much of the academic debate has often been ideologically cast, with some of the literature partisan, and thus more easily discounted.

In that regard, therefore, in my submission it may be that more than usual emphasis should be placed on the statistical material, and in particular the statistical material set out in the various figures and tables in this work -- for example, Figure 1 on Page 76, Figure 2 on Page 77 and Figure 3 on Page 78.

It is a matter for you, Sir, but you may conclude that the views of the authors of this document, flowing from the statistical material, are hard to refute.

For example, on Page 77 just above the Figure "2": "The overall picture indicates a strong statistical association between gun ownership and gun-related homicide".

Sir, a particular point was made by my learned friend Mr. McEachran in relation to the Vancouver/Seattle Study.

With regard to what he said, it is in my submission important to note, as recorded in annex G at Page 78, where reference is made to the Seattle/Vancouver study, that the reason that these two cities were chosen was because they were "very alike in terms of geography, climate, history, demographic and socioeconomic factors, all of which might arguably produce similar cultures of violence".

So contrary to what one might have understood yesterday from my learned friend, in fact these two cities were chosen specifically because it was thought that gun availability was the main, or at/

at least one very clear differentiating factor between them, and they were otherwise similar.

In this general context you have I think already had a reference to the evidence of Professor Cooke, but perhaps not the specific passages, and I would simply refer you to his evidence, for example Day 22 (2689) and Day 23 (2702), where he indicated that, in the context of methods of control, gun availability is the most obvious situational factor of importance.

So, Sir, where does this leave you with the task that you have on this part of the overall picture? Maybe the choice is to accept the conclusions of the independent review as trustworthy and reliable.....

LORD CULLEN: What do you mean by that -- do you mean this?

MR. CAMPBELL: The Green Book, yes.

LORD CULLEN: But that itself has been criticised, has it not?

MR. CAMPBELL: That itself has been criticised. I will come on to the criticism in a moment, but I do stress "independent" in this context, and independent in the sense of reviewing, one assumes -- and there is no reason to assume to the contrary -- the major academic work on the matter.

The choice is either to accept the conclusions of this work or alternatively to embark upon what one might think is a very difficult task of attempting to resolve the issue by reference to the other material before you, without the benefit of evidence and cross-examination, and without the benefit of all other relevant research studies over and above those relied upon by my learned friend, Mr. McEachran.

An alternative approach, which may come to the same thing, is having had regard to the material in the work by Mr. Stevenson and the others mentioned, that you may conclude that nonetheless there is no good or sufficient reason, in the absence of a much fuller examination of the issue, to/

to reject the terms of the evidence laid before you by the Home Secretary and the Secretary of State, bearing in mind that it is not only the result of an independent review, of up-to-date research, it would appear to be plainly supported by the statistical information, and in my submission is also common sense.

LORD CULLEN: I had a recollection, which is not very fresh in my memory, that there was some suggestion that there was a figure used in this paper that could not be right.

MR. CAMPBELL: I think there was a mention of a decimal point in the wrong place?

LORD CULLEN: Yes. Can you remind me where it was, and if you have any comments on that point?

MR. CAMPBELL: I think from memory -- and I am subject to correction here, no doubt -- it is -- yes, it is under reference to, I think if one looks at Page 83 of the Green Book, the figure given in table A.1 for the homicide rate per 1 million of the population in Great Britain is given as 1.3, whereas at Page 79, albeit in the context of England and Wales only, in table 2 the average annual rate for all homicide is given as 11.3 per million of the population, and it was observed that there is a decimal point I think in the wrong place.

LORD CULLEN: So it should be?

MR. CAMPBELL: Well, I am not, I am bound to say, in a position to necessarily correct the Green Book here, because it is a little bit more complicated than that. I think I will try to find the passage in one of these works that deals with it.

I think there are some other points made in that regard. I think it is Mr. Stevenson.....

LORD CULLEN: I think I will come back to Mr. Scoggins in a moment to see if he can help us on that point.

MR. CAMPBELL: Yes. It is at Pages 9 and/

and 10 of Mr. Stevenson's work, given at annex G.

LORD CULLEN: And what does he say is the correct figure?

MR. CAMPBELL: Well, what he says is "Page 79, table 2 states that the homicide rate in this country is 11.3 million. Turning to Page 83, however, we are told in table A.1 that it is 1.3 million, and in table A.2 that it is 6.7 million. One might have expected the research and statistics directorate to have noticed that table A.1 seems to suffer throughout from a misplaced decimal point. But even had that been correct, the variation between table 2 and table A.2 is enormous, and for the Home Office to have passed on a discrepancy of this magnitude without comment or explanation is emblematic of breathtaking insouciance".

It/

It may be that rather than a misplaced decimal point that the figure 1 should be missed out.

LORD CULLEN: It should be 11.3 he is saying in Table 8.1?

MR. CAMPBELL: Yes. If one assumes that in Table 8.1 "Britain" is to mean England and Wales.

I am not sure that this matter raised by Mr. Stevenson affects the overall thrust of the argument.

So far as Mr. Stevenson himself is concerned, we know very little about him. Mr. McEachran told us nothing about him, and he doesn't say very much about himself and his work. No reference is made to any qualification in this area, but we do gather that he was a police officer in Alabama at one time. He is plainly part of the shooting community; that is obvious from his material, which is a long-argued case in support of the rights of shooters to retain arms.

Now, sir, despite what is said at page 9 towards the foot of the page to the effect that he does not intend to argue what he refers to as "the constitutional case", although he says "We believe strongly in the constitutional case", much of the document is an argument in favour of a right of civil liberty to possess arms, most notably in the section beginning at page 59, headed "Rights of Englishmen". It is not therefore in my submission a piece of academic research.

Sir, many passages raise questions as to the reliability or credibility of this piece of work, for example the passage at page 21 headed "Palaeolithic Politics", page 56, the chapter headed "Bolsheviks under the Bed" and other passages, such as page 17, which no doubt you will read for yourself.

The passage specifically relied upon by my learned friend Mr. McEachran at page 25, dealing with a quotation from a Professor Gary Kleck of Florida State University: that passage is a quote from/

from an article in 1990, before much of the recent research set out in Annex G. It is a passage which amounts to mere assertion, although it may be that elsewhere in Mr. Kleck's work some detailed analysis is to be found, and it is a passage which in my submission is very hard to reconcile with the statistical data in Annex G.

There is a reference in Mr. Stevenson's work at page 27 to the Greenwood Study, and reference was made to Mr. Greenwood's submission to you. I note in passing, sir, from page 4, Note 17 of Mr. Mundy's submission that amongst other things Mr. Greenwood is a consultant to the Shooting Sports Trust. That perhaps should be borne in mind when reading his work.

The Study referred to by Mr. Stevenson at page 27 and the following page does not address the issue of whether there is a link between gun access and crime rate: rather it deals with a view on whether the legislation has failed to reduce the numbers of guns and gun crime, therefore the results do not justify the amount of police time which has been involved.

You, sir, can no doubt evaluate the merits of the approach suggested by Mr. Greenwood for yourself.

The only other specific passage raised by my learned friend Mr. McEachran was a comment made by a Mr. Sharples to a Home Affairs Select Committee at page 47 to 48. I do not consider it necessary to make any specific comment on that passage myself.

What I would say as far as Mr. Stevenson's work is concerned is that he has plainly gone to an enormous amount of time and trouble, and it would appear to be clear that guns play a dominant or at least a major role in his life and thinking.

So far as Mr. Greenwood is concerned, the specific passage referred to in his submission is No. 60, paragraphs 46 to 48 and paragraph 70.

Sir, I do not intend to take up more time than is necessary by going through these paragraphs/

paragraphs: but putting the matter broadly, paragraphs 46 to 48 are dealing with the effects of the 1988 Act. These paragraphs do not address the issue of whether or not there is a link between gun access and harm flowing from guns; what they deal with is the trend in crime as against the number of certificates over a period of time in our society.

If we accept his figures as correct, the only lesson that can be drawn from that is that we now live in a more violent society.

Now, sir, society will change over time. It is the now that matters. What one requires is what one finds in the Green Book, namely a comparison between different but broadly similar communities or cultures in modern times, with differing levels of gun availability.

So far as paragraph 48 is concerned, the figures there are specific to shotguns. They do not address the critical question. Paragraph 70, to which reference was also made, does not deal with the matter of considering the use of firearms in homicide and lethal assaults. I do not propose to say anything further on that.

There is it is fair to say a section in Mr. Greenwood's work which does deal with the specific matter at hand. I do not intend to take up time dealing with that. You, sir, will no doubt read that matter in the context of everything else. Again, this document is an argued case; it is not an objective piece of academic work.

So far as Mr. Mundy is concerned, all we really know is that he lives in a place called Much Hadham in Hertfordshire. Again this is an argued case, not a piece of academic research. Sir, in conclusion, what much of this boils down to, so far as the material put forward by those and other gentlemen are concerned, is the view that so long as there are illegal weapons then gun crime will continue. That basic view underpins much of the material which we find in these documents.

That, sir, however fails to address the important question, in my submission: what about the Hamiltons of the world, who would not arm themselves from the criminal underworld? What about the/

the impulsive killer, what about the suicide and the extended suicide? The question of illegal weapons is wholly irrelevant to this. Similarly, one would wish to have regard to the overall benefits in time of reducing legal weapons, and thereby reducing the overall number of weapons in our society.

Finally, sir, it may be considered that the most cogent evidence of a link between legal gun ownership and violent crime is what happened at Dunblane on the 13th March, and earlier at Hungerford.

Sir, I appreciate this is potentially a big issue, and I am conscious that that perhaps will not have assisted you a great deal: but unless I can help you any further there is nothing more I would wish to say in relation to Mr. McEachran's remarks.

LORD CULLEN: Thank you very much for your assistance, Mr. Campbell; I am much obliged. Mr. Scoggins, can you help about the decimal point?

MR. SCOGGINS: I think if you study the submissions of Mr. Stevenson and Mr. Mundy you will find it is there explained. There is a problem with the transposition of figures from particularly the Canadian research.

LORD CULLEN: I was wanting to know if I have the means of resolving this particular point.

MR. SCOGGINS: You will find the arguments in the submissions.

LORD CULLEN: Thank you very much. Now, Mr. Bonomy, if there is nothing further, is there any other submission you wish to make?

MR. BONOMOY: I have a number of brief comments to make on matters arising from the other addresses.

First of all in relation to the position of Central Regional Council, I indicated on Monday that I accepted the factual content of the submissions handed to you by Mr. Jones, subject to clarification of certain matters. I can now tender to you a note of the two matters of fact which in my submission/

submission ought to be added to the record of material in relation to Central Region. I do not propose to say anything further on that.

LORD CULLEN: Are these agreed or not?

MR. BONOMOY: No, these are my qualifications to what Mr. Jones has submitted. Otherwise I agree the factual content of his submission.

LORD CULLEN: Mr. Jones, do you want to add anything?

MR. JONES: I do not have any quarrel with what is being proposed, and to that extent there is not a disagreement about the material. I have not incorporated it into my submissions because part of it is from the perspective of Miss Renton, who gave evidence, and I considered that did not lie very easily with the Regional Council's perspective.

LORD CULLEN: Thank you very much.

MR. BONOMOY: The second matter I want to deal with is the question of the interpretation of Section 27 of the Firearms Act 1968. I do now have a copy of the Firearms Act 1920, and you will see that Section 27 appears as Section 1(2) of this Act, with certain differences. All the familiar expressions are there, but not quite in the same position.

Section 1(2) states: "A firearms certificate shall be granted by the Chief Officer of Police of the district in which the applicant for the certificate resides, if he is satisfied that the applicant is a person who has a good reason for requiring such a certificate", rather than a firearm, "and can be permitted to have in his possession, use and carry a firearm or ammunition without danger to the public safety or to the peace, and on payment of the prescribed fee: provided that -

- (a) a firearms certificate shall not be granted to a person whom the Chief Officer of Police has reason to believe to be a person who by this Act is prohibited from possessing, using or carrying a firearm, or to be a person/

person of intemperate habits or unsound mind, or to be for any reason unfitted to be entrusted with firearms"; so the proviso is identical. There is some little difference in the main part of the Section, however.

The provision for revocation is sub-section (6) of Section I, which provides that "A firearms certificate may be revoked by the Chief Officer of Police of the District in which the holder resides if he is satisfied that the holder thereof is a person who is prohibited by this Act from possessing, using or carrying a firearm, or is a person of intemperate habits or unsound mind, or is otherwise unfitted to be entrusted with firearms".

Now, sir, I have come more and more to be of the view, listening to the other addresses, that there is no way of satisfactorily explaining what was in the mind of the person who drafted these provisions. One simple example is the use of the expression in sub-section (2)(a) "for any reason unfitted to be entrusted with firearms", and then in sub-section (6) the expression "otherwise unfitted to be entrusted with firearms", when in sub-section (6) the criteria are fewer than in sub-section (2). I don't know I can explain the logic of these two ways of addressing unfitness. I cannot begin to try to explain that. What I was endeavouring to say on Monday was that this may be an area that you will feel able to look at. I accept you have indicated this afternoon that perhaps that is a tall order in the circumstances arising out of this case, but I do suggest to you that if you do not feel that it is within your remit to look at it in detail, bearing in mind the various constraints upon you, nevertheless I would suggest it is at least an area that you might comment on as requiring urgent consideration.

LORD CULLEN: Certainly the substance of it is for me to consider, but I am not sure whether it is wise to become embroiled in drafting, which might cause embarrassment, because once it gets into the hands of those who know the system better than I will ever know it it might be discovered there are problems which have to be sorted out.

MR./

MR. BONOMO: I appreciate that.

So far as the Guidance is concerned, in paragraph 6.6 there is reference to the criteria which Chief Officers of Police should apply in exercising the discretion under Section 27(I), where three or four provisos are stated. There then follow a number of figures within 6.7 dealing with what might be said to be the positive criteria, the ones contained in the original body of the Section, good reason and whether permission can be given without danger to public safety or to the peace. No addition is made to this proviso, indicating a certain approach, encouraging the police to make enquiries into the positive elements but ignoring largely the other elements, suggesting these are matters to take account of only if they come to light, rather than going looking for them.

Going on to Section 7, which deals with the grant or refusal of shotgun procedure, it is stated "No certificate shall be granted or renewed if the Chief Officer of Police: (a) has reason to believe that the applicant is prohibited by the Act from possessing a shotgun; or (b) if satisfied that the applicant does not have a good reason for possessing, purchasing or acquiring one", and it goes on to suggest there is therefore a need to make further enquiries only when it comes to his notice that there are doubts about the applicant's reasons for possessing a shotgun: so where reason becomes a negative rather than a positive feature, it has been suggested to the police that they need not look very closely.

LORD/

3 p.m.

LORD CULLEN: That might fit in with the expression "reason to believe".

MR. BONOMOY: Indeed, I appreciate that but it also fits in with the structure of the two separate provisions.

Now, sir, on the question of good reason, we have perhaps paid little attention to the word "good" in all this debate and indeed the guidance may more concentrate on the reason element rather than the good reason element. I wonder whether, if one thinks about the test as being good reason which in itself involves a value judgment, that perhaps we see the nature of the conflict between the guidance and the statute.

Now, I have little else to say on this subject except two things. One, to recognise that the conflict which apparently exists between the Government's evidence on good reason in paragraph 55 and the guidance at paragraph 6.8 (i) suggests that there is no clear understanding of what is meant by good reason in this context or how indeed it should be established. Secondly, to say that you may well give consideration to this, that where a renewal is involved good reason should perhaps require at least, in relation to target shooting, current active club membership. In other words, current, regular engagement in shooting activity. I state that simply as a bare minimum requirement to establish the reason and whether it is a good reason is a matter then for evaluation by the Chief Police Officer.

Now, sir, it has never been my intention in making available or at least preparing a note on the law to present an exhaustive interpretation. The note was simply designed to identify areas that you may wish to look at and beyond that I do not now propose to go at this stage.

Can I turn now to the paper that was submitted by Miss Dunlop when she addressed you in relation to the involvement of the Procurators Fiscal. May I simply ask you to bear in mind certain factors when considering that issue. There are a number of these.

In/

In 1988, precognitions were obtained from witnesses. These are not available to the Inquiry. There were no specific injuries reported in respect of the children and there is apparently no evidence that Hamilton struck any child for other than disciplinary purposes. Constables Gunn and Duncan reported that the children were not in physical or moral danger as far as they could tell and Mr. Taylor has addressed you on the question of the attitude of the parents, which was far from uniform.

In 1991, when a child was allegedly assaulted, reference has been made to the obvious violent and bullying nature of the child. In that connection, may I also draw your attention to a report that appeared in today's THE HERALD newspaper at page 7 which is headed "Teacher Who Hit Problem Pupil Is Cleared". It involved a teacher slapping and punching a child on the face and head. At the end of that report the Sheriff told the accused "I may be criticised uphill and down dale for what I am going to do. From what I heard, you cracked in circumstances in which I would have thought many people would have cracked. I don't think it is right and proper that society, this Court, or the Education authority should overreact to this situation. The young lad seems to me to have been causing a lot of trouble and to have been the architect of his own misfortune. You will be given an absolute discharge with no stain on your character". I simply ask you to pay attention to it. I make no comment on it.

It of course goes without saying that sufficiency of evidence is not the sole criterion for a Procurator Fiscal. If you have before you the typed version of Miss Dunlop's submissions, can I ask you in certain contexts in it to have regard to certain other authorities. I don't intend to go through them but I will provide copies of them for you. In the paragraph "assault" on the first page, can I invite you, sir, to take account of the case of B v HARRIS 1990 SLT 208. That was a case to which Hamilton himself referred in a letter which is D51K dated 14th November, 1989 which he sent to Mr. McMurdo, in which he claimed that the Court of Session says parents may even belt their children. I invite you to look at the facts of the case of H v LEES and D v ORR which were the two cases under Section/

Section 12 of the Children and Young Persons Act where the convictions were quashed. I invite you also in regard to breach of the peace to consider CARDLE v MURRAY 1993 SCCR 170 and KAVANAGH v WILSON 1995 SCCR 693.

I also ask you to bear in mind, sir, that in relation to breach of the peace, and indeed any crime, the starting point is the actual behaviour and not the effect of that behaviour although the effect is obviously a very important element.

I think something was said also within Miss Dunlop's submission about a decision in 1993 not to prosecute. My recollection of the evidence is that in 1993 the only request was to apply for a warrant to search Hamilton's home.

Lastly at this stage, sir, the case of McLEOD v TIFFNEY, which is referred to in the second last page, may bear some scrutiny but of course it becomes largely irrelevant when one considers the fact that Mr. Cardle, for reasons which he explained, did not consider the additional material which had been obtained but it does, in my submission, appear to have been obtained in circumstances which would normally have prevented the Procurator Fiscal dealing with the case of Mr. Hamilton from considering that additional material.

Now, sir, I have a number of fairly minor comments to make on some of the addresses.

Certain things were said yesterday about Mrs. Haggart and about her failure to complain that Hamilton had threatened her with a gun on Inchmoan Island, albeit Mrs. Reilly referred to that. I mention just for the sake of completeness that you will find a reference by Mrs. Haggart to there being a rifle on the island (p.727E). It goes no further than that but it should be put in that particular context.

Reference was made by Mr. Taylor to the absence of evidence in some instances of the relationship between witnesses and Hamilton and one he referred to was Clive Woods. At page 450C-E questions were asked of Woods about whether Hamilton was a friend of his. He was asked the specific question/

question "Did you consider yourself to be a friend of his?" and he said "Well, in different circumstances I would have said I was as friendly as I am with anybody. You know, I class him as a useful acquaintance. He was somebody who had been extremely useful in the past and therefore, yes, he was a friend. He wasn't a close friend. My friendship only really revolved around the shooting club".

LORD CULLEN: Just a small point; there has been some variation about the spelling of his name. Is it Wood or Woods? I have it noted here as being Wood but I have seen it as Woods.

MR. BONOMY: I think the only way I can answer that properly would be to check with him, sir, and I will do that.

LORD CULLEN: For the time being, you can assume I am treating it in the singular, Wood.

MR. BONOMY: Well, I will have it checked. Mr. Taylor also mentioned the absence of identified experts in physical education who had commented adversely on Hamilton's methods of running his gymnastic classes, apart from Mr. Boal. I draw your attention, sir, to the reference by Mr. Penman to a report done by a lady called Tricia Chillas who was the head of sport and leisure of Central Region (p.2035).

LORD CULLEN: That is one of your insertions, isn't it? One of the alterations?

MR. BONOMY: Well, this is in a different context but it is one of the insertions. I am dealing with it in an entirely different context now (pp.2035-2036).

May I refer also to the evidence of Mr. Sommerville from Fife Region who dealt with a report by Mr. Liddell (p.1723). Mr. Liddell was the organiser for physical education with Fife Region.

There was also mention by Mr. Taylor of the absence perhaps of evidence of what the current situation is where an application is being dealt with by Mr. Lynch. I think, sir, consideration of the evidence of Mr. Lynch (p.1324) and Mr. Mather (p.1079C-D)/

(p.1079C-D) would entitle you to draw the inference, precisely the inference that Mr. Taylor suggested, that is a matter of fact and that simply supports what he said but actually confirms that it is in the evidence.

Some reference was made a number of times in his submissions by Mr. Taylor to the failure of the Fiscal to apply for a warrant and that might leave the police or did leave the police thinking that there was no reasonable cause to suspect a crime had been committed. I simply remind your lordship that the test for applying for a warrant to search premises is first of all reasonable cause to suspect a crime has been committed and secondly reasonable cause to suspect that material relating thereto will be found at the locus of the proposed search.

Mr. Cruikshank invited you to look more closely at the evidence of Mr. Bell on this question of training for being a range officer (p.462). When you read it, sir, you will see that the training, although described as formal, is actually a question of picking up the procedure on the job and I see no reason to depart from what I said in my original submissions to you.

He also mentioned that there was no evidence that Hamilton was ever actually a member of Callander Rifle and Pistol Club. You see, sir, that on his very first application for a firearms certificate he refers to Callander Rifle and Pistol Club. Now, I quite accept that no one has come along and said "I was an official and recorded his membership" but that is just one of a number of bits of evidence which do point to his membership at an earlier stage of that club.

Reference was also made by Mr. Cruikshank to the effect of the European Directive in restricting the legislation. In Article 2, paragraph 1 of the Directive, it is provided as follows: "This Directive is without prejudice to the application of national provisions concerning the carrying of weapons, hunting or target shooting" and in my submission there is no inhibition on legislation in this area as a result of the European Directive.

Reference/

Reference has been made to the possible inaccuracy in the statistics in the green book. Sir, do you wish me to have this verified or are you taking other steps to do that because it does seem to be a point that should be clarified.

LORD CULLEN: I think it would be simpler if it was clarified officially. It is covered I think by inquiries I have already asked to be made. I don't think it has been covered by any response received so far but I shall certainly press that point. I would rather go back to that particular source as well as taking into account any other comments made.

MR. BONOMOY: Well, I will take no action unless asked to do so.

My computer source tells me that Mr. Wood is Wood and therefore you can rely on that name.

I think in view of all that has been said over the last two days where there have been contentious issues debated, the public ought to know that the staff, pupils, School Board members and the Parent Teachers Association have indicated praise for the work of Central Scotland Police on the 13th March and subsequently. That does not mean to say they have not got their critics, I don't suggest that for a moment, but I think it right to indicate to the Inquiry that there is no reason for the public to have other than full confidence in Central Scotland Police and their present work.

LORD CULLEN: I see there is a letter from the Board which is an appendix to the submission that was made this morning.

MR. BONOMOY: Yes, there are two letters there. One from the head teacher and one from a spokesperson from the School Board. I think from the School Board and the Parent Teacher Association.

LORD CULLEN: Yes, you are quite right.

MR. BONOMOY: And these were written about two weeks or so after the 13th March.

LORD CULLEN: The one from the Board is dated/

dated 27th March and the other one is the 29th.

MR. BONOMOY: Yes, and in fairness, Mr. Campbell has already made it clear in the context of his submissions that those whom he represents have nothing but praise for the work and in the aftermath following the events of the 13th and the support that they have been given. I simply make this remark in case sight is lost in the debate that is taking place here of the fact that there is no reason to have other than full confidence in the local police force.

Sir, the evidence has been led in accordance with Parliament's remit. The circumstances leading up to and surrounding the events at Dunblane Primary School on the 13th March have been investigated speedily and thoroughly in accordance with Parliament's wish that this should be done as a matter of urgency.

On behalf of all the parties I wish you well in your deliberations on the many difficult issues raised in the evidence and the submissions. All appearing before you have tried our best to assist you in your task. Of course, the ultimate responsibility for deciding what action to take in the future rests with Parliament and it is appropriate therefore to say finally that we recognise that our legislators will have hard decisions to take, requiring good sense and sound judgment in large measure.

LORD/

3.20 p.m.

LORD CULLEN: Just one or two matters I would like to deal with at this stage. First of all, I think there has been circulated a list of proposed corrections, and I suspect that list of itself has now been passed by the parties. But I have received today some further suggested corrections relating to the transcript yesterday, and it may be that parties would like to see that list, and indeed to review the transcript concerning the oral submissions to make sure that there are no corrections remaining in the transcript that perhaps should be drawn to my attention.

So what I would suggest is that parties could submit any corrections they want to make in regard to the transcript -- that is to say the transcript concerning the oral submissions that have been heard over the last few days, and to do that to the Inquiry Office in Edinburgh.

In that connection I should remind you that with effect from the 12th of this month the office will be rehoused in Edinburgh at Parliament House, and the full address and telephone number and fax number can be obtained on application to the office today.

There are one or two final matters I would like to deal with, but before I do that I think I would like to rise for a few minutes so that certain arrangements can be made. I shall resume in a few minutes' time.

After a short adjournment:

LORD CULLEN: I am going shortly to bring the Inquiry, that is to say the public aspect of it, to an end; but before I do so I want to say a few words on behalf of myself and the staff who are working directly with me.

It, I hope, will be obvious there is a considerable amount of planning and arranging that requires to take place to enable an Inquiry such as this to be set up. A great deal of work had to be done, not by myself in this respect, but by others, in order to make sure that the appropriate physical facilities were set up and were set up at the right time/

time to provide the right kind of accommodation for anybody who in any way would be involved with this Inquiry.

I would like to record my sincere thanks to the Scottish Courts Service, and in particular their Property Services Unit for all the work they did in this respect to accommodate the participants, the public and the Press. So far as I know what they did has been well received, and I think they are to be warmly thanked for that.

So far as our facilities on a day-to-day basis are concerned, I would also like to thank Stirling Council in a number of respects, in particular -- without wanting to single out too many individuals -- the hall manager, Mr. Martin Dickson and his staff for all the help that they gave so willingly at every stage so as to enable this Inquiry to proceed in the way it has done; and also the Social Work Department for all that they have contributed to this, in making matters run so smoothly and so helpfully, including I think the provision of an in-house creche, which I have never seen, but certainly it seems to have gone off quite well.

Also to the caterers for the way in which they made the cafe available, including at times which are not the normal times of opening.

We have had the benefit of the police and security officers, and we have also had the benefit of the Scottish Office Information Directorate, the latter handling the flow of information to the Press. I thank them all for the way in which they have made matters so straightforward.

So far as the setting of the Inquiry itself is concerned - and you appreciate I am now moving out into the arena here -- I would like to record my gratitude to those who have attended to making sure that we could hear what is said and that when necessary we could have documents and other things displayed.

I must also thank the shorthand writers and the bar officer, Bert White, and the two production officers, who have been ready to cope at the/

the last moment with some unexpected documents which appeared from the middle of nowhere.

That point reminds me of the way in which matters have had to be put together in some respects at the last moment, because a great deal of material was available, and from that a selection had to be made very much at the last moment. That called for a great deal of expedition and tolerance on the part of those concerned.

Turning to the parties and to the Crown, I owe a great debt of gratitude to all of them for the way in which they have helped this Inquiry to proceed with the clarity and expedition with which it has.

I have welcomed at every stage their very co-operative attitude, for which I am very grateful, because it has managed to enable me to get through a large amount of material within a comparatively short space of time.

The heaviest burden I suppose has fallen upon the Crown, and I am particularly grateful to Crown counsel and to the Procurator-Fiscal and his staff for the way in which they have shouldered that extremely heavy burden.

I will not leave out of account the unseen multitude who have submitted written submissions to me. They will all, of course, be considered and evaluated when I have the appropriate time to do so, but I am most grateful for the large response which I have received in regard to the topics upon which I invited those written submissions.

That leaves me now with my task, which is a very heavy responsibility, but it is nothing less than the subject matter deserves. I am most grateful for all the help that I have received, and the task now transfers to me to consider everything that I have heard and consider everything that I will be reading or have read, and in due course to produce a report that I hope will measure up to the responsibility which is entrusted to me. Thank you all very much.

The Inquiry then terminated.